

ADMINISTRATIVE

§1-801

Article 8. Elections

§1-805

§1-801 ELECTIONS; DATE; NOMINATION OF OFFICIALS. All Municipal Primary and General elections shall be held in accordance with the provisions of Chapter Thirty-two (32) Revised Statutes of Nebraska. Said elections shall be held in conjunction with the State Primary and General Elections. The County Clerk shall have charge of the election and shall have the authority to deputize the Municipal Clerk for Municipal election purposes.

Commencing with the Statewide Primary Election in 1976, and every two (2) years thereafter, those candidates for Mayor and for positions on the City Council whose terms will be expiring shall be nominated at the Statewide Primary Election and elected at the Statewide General Election. (Ref. 16-302.01(2), 32-505, 32-4,147 RS Neb.)

§1-802 ELECTIONS; TERM OF OFFICE. All elected officers of the Municipality shall serve a four term of (4) years and until their successors are elected and have qualified. (Ref. 16-302.01 (3)RS Neb.)

§1-803 ELECTIONS; PRIMARY ELECTION, NUMBER OF CANDIDATES FILING. If the number of candidates properly selected for nomination at the primary election does not exceed two (2) for each vacancy to be filled, all candidates properly filed shall be considered nominated, and no primary election for their nomination shall be required. (Ref. 16-302.01(4) RS Neb.)

§1-804 ELECTIONS; TIE VOTES. In the case of a tie vote of any of the candidates in either the primary or general election, the County Clerk shall notify such candidates to appear at his office on a given day and hour to determine the same by lot before the canvassing board, and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail. (Ref. 16-302.01(6) RS Neb.)

§1-805 ELECTIONS; GENERAL ELECTION, PREPARATION OF BALLOT. When more than one (1) person becomes a candidate by filing, petition, or write-in procedures for the same position in the primary, the County Clerk, in preparing the official ballot for the general election shall place thereon the names of the persons who received the greatest number of votes in the primary, but in no event shall the names on the general election ballot be more than twice the number of vacancies to be filled at the general election.

The County Clerk shall place the names of the candidates on the general election ballot in the direct order according to the number of votes received at the primary election. If no primary election was held, the names of the candidates shall be placed upon the general election ballot in the order of their filing. (Ref. 16-302.01(7) & (8)) RS Neb.)

§1-806 ELECTIONS; ELECTION TO TERMS. The candidates shall be placed on the general election ballot and the candidates receiving the greatest number of votes shall be elected to terms of the longest duration, and those receiving the next greatest number of votes shall be elected to the remaining term or terms. The County Clerk shall place the names of the candidates on the general election ballot in the direct order according to the number of votes received at the primary election. If no primary election was held, the names of the candidates shall be placed upon the general election ballot in the order of their filing. The term of office of all such member shall commence on the first regular meeting of December following their election. Any vacancy on the Council resulting from causes other than expiration of the term shall be filled by vote of the remaining members as provided in Section 1-208. (Ref. 16-302.01(8)(9) RS Neb.)

§1-807 ELECTIONS; NOMINATIONS, WHEN FILED. The name of a candidate shall not be printed upon the official ballot for the election of elective officials unless he shall have filed a written application with the County Clerk at least sixty (60) days prior to the Primary Election requesting that his name be placed upon the official ballot for such election. (Ref. 32-512, 32-535 RS Neb.)

§1-808 ELECTIONS. FILING FEE. Prior to the filing of any nomination papers, there shall be paid to the Municipal Treasurer a filing fee which shall amount to one (1%) per cent of the annual salary for the office for which the candidate will file: Provided, there shall be no filing fee for any candidate filing for an office in which a per diem is paid rather than a salary, or an office for which there is a salary of less than five hundred (\$500.00) dollars per year. No nominating papers shall be filed until the proper Municipal Treasurer's receipt, showing the payment of the filing fee shall be presented to the election officer with whom the nomination papers are to be filed. (Ref. 32-513 RS Neb.)

§1-809 ELECTIONS; PETITION, WRITE-IN, AND OTHER CANDIDATES FOR GENERAL ELECTION BALLOT; PROCEDURES.

(A) (1) Any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot for a partisan office by filing petitions as prescribed in this section and Neb. RS 32-621 or by nomination by political party convention or committee.

(2) Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot if a vacancy exists on the ballot under subsection (2) of Neb. RS 32-625 and the candidate files for the office by petition as prescribed in this section or files as a write-in candidate as prescribed in Neb. RS 32-615.

(Neb. RS 32-616)

(B) Petitions for nomination shall conform to the requirements of Neb. RS 32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. Petitions shall be signed by registered voters residing in the ward in which the officer is to be elected, if candidates are chosen by ward, or residing in the municipality, if candidates are not chosen by ward, and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. RS 32-607. Petition signers and circulators shall conform to the requirements of Neb. RS 32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing payment of the filing fee required pursuant to Neb. RS 32-608. The petitions shall be filed by September 1 in the year of the general election. (Neb. RS 32-617)

(C) (1) The number of signatures of registered voters needed to place the name of a candidate upon the nonpartisan ballot for the general election shall be at least 10% of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election in the ward in which the officer is to be elected or in the municipality, as appropriate.

(2) The number of signatures of registered voters needed to place the name of a candidate upon the partisan ballot for the general election shall be at least 20% of the total vote for Governor or President of the United States at the immediately preceding general election within the municipality, not to exceed 2000.

(Neb. RS 32-618)(Ord. No. 1413 08/18/98; Ord. 1563 05/06/03)

§1-810 ELECTIONS; VOTER QUALIFICATIONS. Electors shall mean every person of the constitutionally prescribed age or upwards, who shall have the right to vote for all officers to be elected to public office, and upon all questions and proposals, lawfully submitted to the voters at any and all elections authorized or provided for by the Constitution or the laws of the State of Nebraska, except school elections; Provided, no person shall be qualified to vote at any election unless such person shall be a resident of the State and shall have been properly registered with the election official of the county. (Ref. 17-602, 32-102 RS Neb.)

§1-811 ELECTIONS; WARDS. The Municipality shall redistrict as often as necessary using the most recent Federal Census to insure that each ward is substantially equal in population. The Municipality shall stand divided into the following wards as set forth herein:

FIRST WARD

A. First Ward shall include the following area in the corporate limits of the City: Commencing at the centerline of Juniper Avenue extended south to the corporate limits of the City, thence north on said extended centerline of Juniper Avenue to the intersection of the centerline of Juniper Avenue and 7th Street; thence west on the centerline of 7th Street to the intersection of the centerline of Oak Avenue and 7th Street; thence north on the centerline of Oak Avenue to the intersection of Oak Avenue and 9th Street; thence east on the centerline of 9th Street to the centerline of Boswell Avenue; thence north on the centerline of Boswell Avenue to the centerline of 13th Street; thence east on the centerline of 13th Street to the east corporate limits of said City. All territory lying east and south of the aforesaid description shall be the First Ward of the City of Crete, Saline County, Nebraska.

SECOND WARD

B. Second Ward shall include the following area in the corporate limits of the City: Commencing at the centerline of Juniper Avenue extended south to the corporate limits of the City, thence north on said extended centerline of Juniper Avenue to the intersection of the centerline of Juniper Avenue and 7th Street; thence west on the centerline of 7th Street to the centerline of Oak Avenue; thence north on the centerline of Oak Avenue to 9th Street; thence east on the centerline of 9th Street to the intersection centerline of 9th and Main Avenue; thence north on the centerline of Main Avenue to 12th Street;

thence west on the centerline of 12th Street to Oak Avenue; thence north on the centerline of Oak Avenue as it intersects the south line of the Chicago, Burlington and Quincy Railroad Company right-of-way, thence northeasterly on the south line of said Chicago, Burlington and Quincy Railroad Company right-of-way to the corporate limits of the City. All territory lying west and north of the aforesaid description shall be in the Second Ward of the City of Crete, Saline County, Nebraska.

THIRD WARD

C. Third Ward shall include the following area in the corporate limits of the City: Commencing on the north line of 13th Street at its intersection with the east corporate limits of said City, thence west on said north line of 13th Street to the intersection of 13th Street and Boswell Avenue; thence south on the centerline of Boswell Avenue to the intersection of 9th Street to its intersection with Main Avenue; thence north on the centerline of Main Avenue to the intersection of the centerline of Main Avenue and 12th Street; thence west on the centerline of 12th Street to the centerline of Oak Avenue; thence north on the centerline of Oak Avenue as it intersects the south line of the Chicago, Burlington and Quincy Railroad Company right-of-way; thence northeasterly along the south line of said Chicago, Burlington and Quincy Railroad Company right-of-way, to the corporate limits of said City. All territory lying north and east of the aforesaid description shall be in the Third Ward of the City of Crete, Saline County, Nebraska.

The establishment of the wards herein provided shall be implemented and become effective with the next election to be held pursuant to Section 1-801 of the City Code. Each ward shall constitute an election district.

§1-811.01 ELECTIONS; WARDS, ELECTION DISTRICTS. The Mayor and City Council shall divide the City into not less than two (2) Wards, as compact in form and equal in population as possible, the boundaries of which are defined below. Each ward shall constitute an election district; Provided, when any Ward shall contain greater than five hundred (500) legal voters, the Mayor and City Council may divide such Ward into two (2) or more election districts. (Ref. 16-104 RS Neb.)

§1-812 ELECTIONS; BALLOTS. The County Clerk shall provide printed ballots for every general Municipal election and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the Municipality. (Ref. 32-417, 32-418 RS Neb.)

§1-813 ELECTIONS; CERTIFICATE, OF NOMINATION OR ELECTION.

The Election Commissioner, County Clerk, or Municipal Clerk shall, within 40 days after the election, prepare, sign, and deliver a certificate of nomination or a certificate of election to each person whom the canvassing board has declared to have received the highest vote for each municipal office. No person shall be issued a certificate of nomination as a candidate of a political party unless such person has received a number of votes at least equal to 5 % of the total ballots cast at the primary election by registered voters affiliated with that political party in the district which the office for which he or she is a candidate serves.

A certificate of election prepared by the Municipal Clerk shall be in the form as nearly as possible prescribed in Neb. RS 32-1033 and shall be signed by the Mayor, under the seal of the Municipality, and countersigned by the Clerk. (Neb. RS 19-3041, 32-558, 32-1033) (Ord. No. 1565, 05/06/03)

§1-814 ELECTIONS; INABILITY TO ASSUME OFFICE.

Repealed by Ordinance No. 1562, May 6, 2003)

§1-815 ELECTIONS; RECALL PROCEDURE:

(A) For purposes of this section, filing clerk means the Election Commissioner or County Clerk. (Neb RS 32-1301)

(B) (1) The Mayor, a member of the City Council, and any other elected official of the city may be removed from office by recall pursuant to Neb. RS 32-1301 to 32-1309.

(2) The recall procedure and special election provisions of such sections shall apply to members of the City Council who are elected by ward. Only registered voters of such member's ward may sign a recall petition or vote at the recall election. The recall election shall be held within the member's ward. When a member of the City Council is nominated by ward in the primary election and elected at large in the general election, the recall provisions shall apply to the registered voters at the general election. (Neb. RS 32-1302)

(C) (1) A petition demanding that the question of removing the Mayor, a member of the City Council, or any other elected official of the city be submitted to the registered voters shall be signed by registered voters equal in number to at least 35% of the total vote cast for that office in the last general election, except that for an office for which more than one candidate is chosen, the petition shall be signed by registered voters equal in number to at least 35% of the number of votes cast for the person receiving the most votes for such

office in the last general election. The signatures shall be affixed to, petition papers and shall be considered part of the petition.

(2) Petition circulators shall conform to the requirements of Neb. RS 32-630.

(3) The petition papers shall be procured from the filing clerk. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the filing clerk by at least one registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The affidavit shall state the name and office of the official sought to be removed, shall include in typewritten form in concise language of 60 words or less the reason or reasons for which recall is sought, and shall request that the filing clerk issue initial petition papers to the principal circulator for circulation. The filing clerk shall deliver a copy of the affidavit by certified mail to the official sought to be removed. If the official chooses, he or she may submit a defense statement in typewritten form in concise language of 60 words or less for inclusion on the petition. Any such defense statement shall be submitted to the filing clerk within 20 days after the official receives the copy of the affidavit. The filing clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within 30 days from the date of issuing the petitions.

(4) The filing clerk, upon issuing the initial petition papers or any subsequent petition papers, shall enter in a record, to be kept in his or her office, the name of the principal circulator or circulators to whom the papers were issued, the date of issuance, and the number of papers issued. The filing clerk shall certify on the papers the name of the principal circulator or circulators to whom the papers were issued and the date they were issued. No petition paper shall be accepted as part of the petition unless it bears such certificate. The principal circulator or circulators who check out petitions from the filing clerk may distribute such petitions to persons who may act as circulators of such petitions.

(5) Petition signers shall conform to the requirements of Neb. RS 32-629 and 32-630. Each signer of a recall petition shall be a registered voter and qualified by his or her place of residence to vote for the office in question. (Neb. RS 32-1303)

(D) Each petition paper shall conform to the requirements of Neb. RS 32-1304.

(E) (1) The principal circulator or circulators shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the filing clerk within 30 days after the filing clerk issues the initial petition papers to the principal circulator or circulators.

(2) Within 15 days after the filing of the petition, the filing clerk shall ascertain whether or not the petition is signed by the requisite number of registered voters. No new signatures may be added after the initial filing of the petition papers. No signatures may be removed unless the filing clerk receives an affidavit signed by the person requesting his or her signature be removed before the petitions are filed with the filing clerk for signature verification. If the petition is found to be sufficient, the filing clerk shall attach to the petition a certificate showing the result of such examination. If the requisite number of signatures has not been gathered, the filing clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose. (Neb. RS 32-1305)

(F) If the recall petition is found to be sufficient, the filing clerk shall notify the official whose removal is sought and the City Council that sufficient signatures have been gathered. If the official does not resign within five days after receiving the notice, the Council shall order an election to be held not less than 30 nor more than 45 days after the expiration of the five-day period, except that if any other election is to be held in the city within 90 days of the expiration of the five-day period, the Council shall provide for the holding of the removal election on the same day. After the Council sets the date for the recall election, the recall election shall be held regardless of whether the official whose removal is sought resigns before the recall election is held. (Neb. RS32-1306)

(G) The form of the official ballot at recall election shall conform to the requirements of Neb. RS 32-1307.

(H) (1) If a majority of the votes cast at a recall election are against the removal of the official named on the ballot or the election results in a tie, the official shall continue in office for the remainder of his or her term but may be subject to further recall attempts as provided in division (I) of this section.

(2) If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the official is deemed removed, the

removal shall result in a vacancy in the office which shall be filled as otherwise provided in this section and state law.

(3) If the election results show a margin of votes equal to 1% or less between the removal or retention of the official in question, the Secretary of State, Election Commissioner, or County Clerk shall order a recount of the votes cast unless the official named on the ballot files a written statement with the Election Commissioner or County Clerk that he or she does not want a recount.

(4) If there are vacancies in the offices of a majority or more of the members of the City Council at one time due to the recall of such members, a special election to fill such vacancies shall be conducted as expeditiously as possible by the Secretary of State, Election Commissioner, or County Clerk.

(5) No official who is removed at a recall election or who resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal or the removal of any other member of the same governing body during the remainder of his or her term of office. (Neb. RS 32-1308)

(I) No recall petition shall be filed against an elected official within 12 months after a recall election has failed to remove him or her from office or within six months after the beginning of his or her term of office or within six months prior to the incumbent filing deadline for the office. (Neb. RS 32-1309) (*Ord. No. 1460, 08/17/99; Ord. No. 1564, 05/06/03; Ord. No. 1619, 09/21/04*)

§1-816 SPECIAL ELECTIONS:

(A) (1) Except as provided in Neb. RS 77-3444, any issue to be submitted to the registered voters at a special election by the city shall be certified by the City Clerk to the Election Commissioner or County Clerk at least 50 days prior to the election. A special election may be held by mail as provided in Neb. RS 32-952 through 32-959. Any other special election shall be subject to division (B) of this section.

(2) In lieu of submitting the issue at a special election, the city may submit the issue at a statewide primary or general election or at any scheduled county election, except that no such issue shall be submitted at a statewide election or scheduled county election unless the issue to be submitted has been certified by the City Clerk to the Election Commissioner or County Clerk by March 1 for the primary election and by September 1 for the general election.

(3) After the Election Commissioner or County Clerk has received the certification of the issue to be submitted, he or she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the City Clerk shall be responsible for the publication or posting of any required special notice of the submission of such issue other than the notice required to be given of the statewide election issues. The Election Commissioner or County Clerk shall prepare the ballots and issue absentee ballots and shall also conduct the submission of the issue, including the receiving and counting of ballots on the issue. The election returns shall be made to the election Commissioner or County Clerk. The ballots, including absentee ballots, shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the County Canvassing Board, the Election Commissioner or County Clerk shall certify the election results to the City Council. The canvass by the County Canvassing Board shall have the same force and effect as if made by the City Council. (Neb. RS 32-559)

(B) Any special election under the Election act shall be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically provided. No special election shall be held under the Election Act in April, May, June, October, November, and December of an even-numbered year unless it is held in conjunction with the statewide primary or general election (Neb. RS 32-405)(Ord. No. 1619, 09/21/04)

§1-817 ELECTIONS; CANDIDATE QUALIFICATIONS. Any person seeking elected office In the Municipality shall be a registered voter prior to holding such office and in addition shall have reached the age of majority. (Ref. 32-4, 157 RS Neb.)

§1-818 ELECTIONS; EXIT POLLS. No person shall conduct any exit A poll, public opinion poll, or any other interview with voters on election day seeking to determine voter preference within twenty (20') feet of the entrance of any public place room or, if inside the public place building, within one hundred (100') feet of any voting booth. (Ref. 32-1221 RS Neb.)