

## CHAPTER 1

### ADMINISTRATIVE

#### ARTICLE 7. ELECTIONS

**1-701 ELECTIONS; GENERAL MUNICIPAL.** The general Municipal election shall be held in accordance with the provisions of Chapter thirty-two (32), Revised Statutes of Nebraska. The Governing Body has determined by ordinance duly adopted to hold the Municipal Election in conjunction with the Statewide Primary Election held on the first (1st) Tuesday after the second (2nd) Monday in May of each even numbered year. Prior to February one (1) of the year in which the first such joint election takes place, the Governing Body shall receive the consent in writing of the County Board to so hold the election and such authorization shall be prescribed according to State law. The County Clerk shall have charge of the election and shall have the authority to deputize the Municipal Clerk for Municipal election purposes. (Ref. 19-621, 32-505, 32-4147 Neb.)

**1-702 ELECTIONS; SPECIAL MUNICIPAL.** In lieu of submitting a matter or issue at a separate special Municipal Election, the Municipality may submit such matter or issue at a statewide General or Primary Election. Such matter or issue must be certified by the Municipal Clerk to the County Clerk or Election Commissioner at least fifty (50) days prior to the election. The Municipal Clerk shall be responsible for the publication or posting of any required special notice of the submission of such matter other than that required to be given to the statewide election issues.

**1-703 ELECTIONS; SPECIAL ELECTION NOTICE.** No less than five (5) days nor more than ten (10) days prior to any special Municipal election, the Municipal Clerk shall prepare and cause to be published once in a newspaper that is in or of general circulation in the Municipality but, if no newspaper is published in or is of general circulation in the Municipality, then by posting in each of three (3) public places in the Municipality a notice containing the proclamation concerning the said special election. The notice shall be in the form prescribed by State law. (Ref. 19-3006 RS Neb.)

**1-704 ELECTIONS; PETITION CANDIDATES.** (1)(a) 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 Section 32-621 RS Neb. or by nomination by political party convention or committee.

(b) 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 (1) of section 32-626 RS Neb. and the candidate files for the office by petition as prescribed in this section.

(2)(a) 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 twenty percent (20%)

of the total vote for Governor or President of the United States at the immediately preceding general election in the Municipality.

(b) 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 twenty percent (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 two thousand (2000).

(3) Petitions for nomination shall conform to the requirements of section 32-628 RS Neb. 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 Municipality and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Section 32-607 RS Neb. No petition for nomination shall be filed unless there is attached thereto a receipt showing payment of the required filing fee. The petitions shall be filed by September 1 in the year of the general election. (Ref. 32-616 through 32-618 RS Neb.)

**1-705 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 in 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. 32-102 RS Neb.)

**1-706 ELECTIONS; CAUCUS CANDIDATES.** The Governing Body of the Municipality may by ordinance call a caucus for the purpose of nominating candidates for offices to be filed in the Municipal election. Such caucus shall be held at least ten (10) days prior to the filing deadline for such election. Notice of such caucus must be published in one (1) newspaper of general circulation in the Municipality at least once in each of two (2) consecutive weeks prior to said caucus. The Municipal Clerk shall notify the person so nominated of his nomination and such notification shall take place not less than five (5) days after the said caucus. A candidate so nominated shall not have his name placed upon the ballot unless, not more than ten (10) days after the holding of such caucus, he shall have filed with the Municipal Clerk a written statement accepting the nomination of the caucus and shall have paid the filing fee, if any, for the office for which he was nominated. (Ref. 17-601.01, 17-601.02 RS Neb.)

**1-707 ELECTIONS; BALLOTS.** It shall be the duty of the County Clerk to 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.)

**1-708 ELECTIONS; CERTIFICATE OF ELECTION.** After the canvass of the vote at the Municipal election, the Municipal Clerk shall prepare a certificate of election for each person whom the Canvassing Board has declared to have received the highest vote and in the form as nearly as possible prescribed by State law which shall be signed by the Chairman of the Governing

body under the seal of the Municipality and countersigned by the Municipal Clerk. The said certificate shall then be delivered to the persons so elected.

**1-709 ELECTIONS; INABILITY TO ASSUME OFFICE.** In a general election where the person who received the highest number of votes is ineligible, disqualified, deceased or for any other reason is unable to assume the office for which he was a candidate and the electorate had reasonable notice of such disability at the time of the election, the candidate in such election who received the next highest number of votes shall be declared elected and shall be entitled to the certificate of election; provided, that any candidate so declared elected received not less than thirty-five (35) percent of the total number of votes cast for such office in the election. If any of the qualifications of this Section are not met by the candidate to be declared elected or reasonable notice of the winner's ineligibility is not available to the voters, a vacancy in such office shall be declared to exist at the time of commencement of the term and shall be filled as prescribed by law. (Ref. 32-537 (7) & (8) RS Neb.)

**1-710 ELECTIONS; RECALL PROCEDURE.** (1) Any or all of the elected officials of the Municipality may be removed from office by recall pursuant to Sections 32-1301 to 32-1309 RS Neb.

(2) Petition circulators shall conform to the requirements of the Election Act. The petition papers shall be procured from the Municipal Clerk. Each petition paper shall conform to the requirements of Section 32-1304 RS Neb. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the Municipal 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 and shall request that the Municipal Clerk issue initial petition papers to the principal circulator for circulation. The Municipal Clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within thirty (30) days from the date of issuing the petitions.

(3) The Municipal Clerk, upon issuing the initial petition papers or any subsequent petition papers, shall enter in a record, to be kept in 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 Municipal 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 Municipal Clerk may distribute such petitions to registered voters residing in the Municipality who may act as circulators of such petitions.

(4) Petition signers shall conform to the requirements of the Election Act. 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 on the date of the issuance of the initial petition papers.

(5) A person demanding that the question of removing a member of the Governing Body be submitted to the registered shall be signed and by registered voters equal in number to at least forty-five percent (45%) of the total vote cast for the person receiving the most for that office in the last general election.

(6) The principal circulator or circulators shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the Municipal Clerk within thirty (30) days after the Municipal Clerk issues the initial petition papers to the principal circulator or circulators. Within fifteen (15) days after the filing of the petition, the Municipal 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 petition papers. No signatures may be removed unless the Municipal Clerk receives an affidavit signed by the person requesting his or her signature be removed before the petitions are filed with the Municipal Clerk for signature verification. If the petition is found to be sufficient, the Municipal 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 Municipal Clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose.

(7) If the recall petition is found to be sufficient, the Municipal Clerk shall notify the official whose removal is sought and the Governing Body that sufficient signatures have been gathered. If the official does not resign within five (5) days after receiving the notice, the Governing Body shall order an election to be held not less than thirty (30) days nor more than forty-five (45) days after the expiration of the five-day period, except that if any other election is to be held in the Municipality within ninety (90) days of the expiration of the five-day period, the Governing Body shall provide for the holding of the removal election on the same day. After the Governing Body 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.

(8) 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 as provided in subsection (10) of this section. 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, 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 in the office which shall be filled as otherwise provided in this Code and state law. If the election results show a margin of votes equal to one percent (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 Municipal Clerk that he or she does not want a recount. If there are vacancies in the offices in the majority or more of the members of the Governing Body 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.

(9) 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 another member of the Governing Body during the remainder of his or her term of office.

(10) No recall petition shall be filed against an elected official within twelve (12) months after a recall petition has failed to remove him or her from office or within six (6) months after the

beginning of his or her term of office or within 6 months prior to the incumbent filing deadline for office. (Ref. 32-1301 through 32-1309 RS Neb.)