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## **CHAPTER 2 – BOARDS AND PUBLIC FACILITIES**

### **Article 1 – Library Board**

#### **SECTION 2-101: LIBRARY; OPERATION AND FUNDING**

A. The City owns and manages the city library through the Library Board. The City Council, for the purpose of defraying the cost of purchases, improvements, management, and maintenance of the library may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all the taxable property within the City. The amount collected from the levy shall be known as the library fund.

B. The fund shall also include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the library.

C. All taxes levied or collected and all funds donated or in any way acquired for the erection, maintenance, or support of the library shall be kept for the use of the library separate and apart from all other funds of the City, shall be drawn upon and paid out by the city treasurer upon vouchers signed by the president of the Library Board and authenticated by the secretary, and shall not be used or disbursed for any other purpose or in any other manner. The City Council may establish a public library sinking fund for major capital expenditures.

D. Any money collected by the library shall be turned over monthly by the librarian to the city treasurer, along with a report of the sources of the revenue.

(Neb. Rev. Stat. §§51-201, 51-209) (Am. Ord. No. 1469, 10/8/03)

#### **SECTION 2-102: MEMBERS; TERMS**

The Library Board shall consist of five appointed members who shall be residents of the City and who shall serve terms of four years. The board members shall be appointed by the mayor and confirmed by a majority vote of the City Council. Neither the mayor nor any council member shall be a member of the Library Board. The terms of members serving on the effective date of a change in the number of members shall not be shortened, and any successors to those members shall be appointed as the members' terms expire. In case of vacancy by resignation, removal, or otherwise, the council shall fill such vacancy for the unexpired term. No member shall receive any pay or compensation for any services rendered as a member of the Library Board. The City Council may require the members of the Library Board to give a bond in a sum set by resolution and conditioned upon the faithful performance of their duties. (Neb. Rev. Stat. §51-202)

#### **SECTION 2-103: MEETINGS; OFFICERS**

A. The members of the Library Board shall, at the board's first meeting in June

each year, organize by electing from their number a president, a secretary, and such other officers as may be necessary. A majority of the members of the Library Board shall constitute a quorum for the transaction of business.

B. No member of the board shall serve in the capacity of both president and secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the city clerk, where they shall be available for public inspection during office hours.

C. The board shall meet at such times as the members may designate. Special meetings may be held upon the call of the president or a majority of the board members.

(Neb. Rev. Stat. §51-204) (Am. Ord. Nos. 1099, 2/3/82; 1469, 10/8/03)

## **SECTION 2-104: POWERS AND DUTIES**

A. The Library Board shall have the power to make and adopt such bylaws, rules, and regulations for its own guidance and for the government of the library and reading room as it may deem expedient, not inconsistent with Neb. Rev. Stat. §§51-201 through 51-219.

B. The Library Board shall have exclusive control of expenditures, all money collected or donated to the credit of the library fund, the renting and construction of any library building, and the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased, or set apart for that purpose.

C. The Library Board may erect, lease, or occupy an appropriate building for the use of such a library, appoint a suitable librarian and assistants, fix the compensation of such appointees, and remove such appointees. The City Council shall approve any personnel administrative or compensation policy or procedure before implementation of such policy or procedure by the Library Board.

D. The Library Board may establish rules and regulations for the government of the library as may be deemed necessary for its preservation and to maintain its usefulness and efficiency. The board may fix and impose by general rules any penalties and forfeitures for trespasses upon or injury to the library grounds, rooms, books, or other property, for failure to return any book, or for violation of any bylaw, rule, or regulation. All fees, penalties, and forfeitures may be collected in civil action in the event of failure, neglect, or refusal to pay the said assessments. The board shall have and exercise such powers as may be necessary to carry out the spirit and intent of Neb. Rev. Stat. §§51-201 through 51-219 in establishing and maintaining the library and reading room. All actions of the board shall be subject to the review and supervision of the City Council.

(Neb. Rev. Stat. §§51-205, 51-207, 51-211) (Ord. No. 1469, 10/8/03)

**SECTION 2-105: ANNUAL REPORT TO CITY COUNCIL**

The Library Board shall, on or before the second Monday in February each year, make a report to the City Council of the condition of its trust on the last day of the prior fiscal year. The report shall show all money received and credited or expended; the number of materials held, including books, video and audio materials, software programs, and materials in other formats; the number of periodical subscriptions on record, including newspapers; the number of materials added and the number withdrawn from the collection during the year; the number of materials circulated during the year; and other statistics, information, and suggestions as the Library Board may deem of general interest or as the City Council may require. The report shall be verified by affidavit of the president and secretary of the board. (Neb. Rev. Stat. §51-213) (Ord. No. 1479, 11/11/04)

**SECTION 2-106: REAL ESTATE; SALE AND CONVEYANCE**

A. The Library Board may, by resolution, direct the sale and conveyance of any real estate owned by the board or by the public library which is not used for library purposes or of any real estate so donated or devised to the board or to the library, upon such terms as the board may deem best.

B. Before any such sale is made, the Library Board shall advertise the sale once each week for three consecutive weeks in a legal newspaper published in or of general circulation in the City. The notice shall set out the time, place, terms, manner of sale, legal description of such real estate, and the right to reject any and all bids. If the bids have not been rejected, then the real estate shall be sold to the highest bidder for cash and the president of the Library Board, upon resolution of the board directing him or her so to do, shall convey the real estate to the purchaser of such real estate upon payment of said bid. If within 30 days after the third publication of the notice a remonstrance against the sale is signed by 30% of the registered voters of the City voting at the last regular city election and filed with the City Council, the property shall not then nor within one year thereafter be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the 30-day period but the filing shall be considered timely if filed or postmarked on or before the next business day.

(Neb. Rev. Stat. §51-216) (Ord. No. 1469, 10/8/03)

**SECTION 2-107: BUILDING AND GROUNDS**

The board may erect, lease, or occupy an appropriate building for the use of the library. The Library Board may purchase or lease grounds, exercise the power of eminent domain, and condemn real estate for the purpose of securing a site for a library building. The procedure to condemn property shall be exercised in the manner set forth in Neb. Rev. Stat. §§76-704 through 76-724. (Neb. Rev. Stat. §§51-210, 51-211) (Ord. No. 1469, 10/8/03)

**SECTION 2-108: MORTGAGES; RELEASE OR RENEWAL**

The president of the Library Board shall have the power to release, upon full payment, any mortgage constituting a credit to the library fund and standing in the name of the board. The signature of the president on any such release shall be authenticated by the secretary of the board. The president and secretary in like manner, upon resolution duly passed and adopted by the board, may renew any such mortgage. (Neb. Rev. Stat. §51-206) (Ord. No. 1469, 10/8/03)

**SECTION 2-109: LIBRARY; DONATIONS**

Any person may donate money, lands, or other property for the benefit of the city library. The title to property so donated may be made to and shall vest in the Library Board members and their successors in office, and the board shall thereby become the owner thereof in trust to the uses of the library. (Neb. Rev. Stat. §51-215) (Ord. No. 1469, 10/8/03)

**SECTION 2-110: LIBRARY; COST OF USE; VIOLATION OF RULES**

A. Except as provided in subsection (B) of this section, the library shall be free of charge for the use of the inhabitants of the City, subject always to such reasonable regulations as the Library Board may adopt to render the library of the greatest use to the inhabitants. The board may exclude from the use of the library any person who willfully violates or refuses to comply with rules and regulations established for the government thereof.

B. The public library shall make its basic services available without charge to all residents of the City. The board may fix and impose reasonable fees, not to exceed the library's actual cost, for non-basic services.

C. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

1. "Basic services" shall include, but are not limited to, free loan of circulating print and non-print materials from the local collection and general reference and information services.
2. "Non-basic services" shall include but are not limited to the use of:
  - a. Photocopying equipment;
  - b. Telephones, facsimile equipment, and other telecommunications equipment;
  - c. Media equipment;
  - d. Personal computers; and
  - e. Videocassette recording and playing equipment.

(Neb. Rev. Stat. §§51-201.01, 51-211, 51-212) (Am. Ord. No. 1469, 10/8/03)



**SECTION 2-111: LIBRARY; DISCRIMINATION PROHIBITED**

No library service shall be denied to any person because of race, sex, religion, age, color, national origin, ancestry, physical handicap, or marital status. (Neb. Rev. Stat. §51-211) (Ord. No. 1469, 10/8/03)

**SECTION 2-112: LIBRARY; BOOK REMOVAL**

It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book or any other material from the library without the consent of the librarian or an authorized employee of the library. Any person removing a book or other material from the library without properly checking it out shall be deemed to be guilty of an offense. (Neb. Rev. Stat. §51-211) (Ord. No. 1469, 10/8/03)

**SECTION 2-113: LIBRARY; LOST AND DAMAGED MATERIALS; PENALTY**

Any person who injures or fails to return any item checked out from the library shall forfeit and pay not less than the value of the item in addition to any replacement costs and penalty which the Library Board may assess. (Neb. Rev. Stat. §51-211)

**SECTION 2-114: LIBRARY; SALE, EXCHANGE, OR DISPOSAL OF BOOKS**

The Library Board may authorize the sale, exchange, or disposal of any surplus, damaged, defective, obsolete, or duplicate books in the library. Records shall be kept of any such books so disposed of. (Neb. Rev. Stat. §51-211)

**SECTION 2-115: LIBRARY; PENALTIES; RECOVERY; DISPOSITION**

Penalties imposed or accruing by any bylaw or regulation of the Library Board and any court costs and attorney's fees may be recovered in a civil action before any court having jurisdiction, such action to be instituted in the name of the board. Money collected in such actions, other than any court costs and attorney's fees, shall be placed in the treasury of the City to the credit of the library fund. Attorney's fees collected pursuant to this section shall be placed in the treasury of the City and credited to the budget of the city attorney's office. (Neb. Rev. Stat. §51-214) (Ord. No. 1469, 10/8/03)



## Article 2 – Park and Recreation Board

### SECTION 2-201: OPERATION AND FUNDING

The City owns and operates the parks and other recreational areas through the City Council which, for the purpose of defraying the cost of the care, management, and maintenance of the city park, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from said tax shall be known as the park fund and shall remain in the custody of the city treasurer. The Park and Recreation Board shall have the authority to adopt rules and regulations for the efficient management of the city parks and other recreational areas of the City. (Neb. Rev. Stat. §§17-948 thru 17-952) (Am. Ord. Nos. 1255, 8/14/89; 1527, 6/11/14)

### SECTION 2-202: APPOINTMENT OF MEMBERS

There is hereby created an advisory board entitled Park and Recreation Board of the City. It shall be comprised of five members who are chosen at large, with four being from the residents of the City and one from outside of the City. The members of the board shall be appointed by the mayor with the assent of the City Council. The appointments shall run on a calendar year with appointments made at the regular December council meeting. (Ord. No. 1527, 6/11/14)

### SECTION 2-203: MEETINGS; OFFICERS

The members of the Park and Recreation Board shall first meet and elect one of its members as chairman of the board and another member as secretary. Thereafter, said election shall be in January each year. The board shall keep regular minutes of each meeting, which shall be provided to the mayor, City Council and city administrator as soon thereafter as the same are available. A quorum of the board shall consist of three board members. The board shall meet as necessary to fulfill its duties. (Ord. No. 1527, 6/11/14)

### SECTION 2-204: DUTIES

The Park and Recreation Board shall have such duties as are necessary to plan recreational programs for the adults and youth of the City and coordinate all programs and sponsors. The board shall also be responsible for the scheduling of all activities as set up by the recreation director. The said director shall be responsible to the Park and Recreation Board, which shall advise and recommend to the mayor, City Council and city administrator concerning all activities carried on in the city parks and in the area of recreation. (Ord. No. 1527, 6/11/14)

### SECTION 2-205: BUDGET; RECREATION DIRECTOR

A. The Park and Recreation Board shall have a budget set out annually by the

City Council, and the city administrator shall hire a recreation director who shall be a salaried individual that is charged with the responsibility of management and supervision of recreational activities, facilities and programs. Said recreation director's salary shall be set by the city administrator and approved by the City Council through the adoption of the budget.

B. The duties of the recreation director shall be as follows:

1. Attend all meetings of the Park and Recreation Board;
2. Assist organizations in building practice and game schedules to prevent overlapping of facility usage;
3. Work with all youth and private sponsors to coordinate activities;
4. Make arrangements to have necessary repairs, improvements and additions to the parks, fields and other facilities owned by the City and used for recreation as recommended by the Park and Recreation Board and approved by the City Council;
5. Report to the City Council monthly in writing as to the activities of the Park and Recreation Board.

(Ord. No. 1527, 6/11/14)

### **SECTION 2-206: PARKS; CAMPING; DONATIONS; DESIGNATED AREAS**

A. The City Council is authorized to receive and remit to the city treasurer donations from persons camping in the city parks and recreation areas owned and operated by the City.

B. It shall be unlawful for any person, firm, association or organization to camp within the city parks or recreation areas other than in designated camping areas without special permission from the City Council.

(Ord Nos. 1061, 6/4/80; 1134, 5/4/83; 1157, 6/6/84; 1180, 5/11/85; 1255, 8/14/89)

### **SECTION 2-207: PARKS; LIMITATION ON CAMPING**

There is hereby established a limitation of duration of use of 14 consecutive days for camping purposes of any camping facilities or other portions of the city parks and recreation areas owned or operated by the City and it shall be unlawful for any person to use for camping purposes any camping facilities or other portions of the city parks and recreation areas owned or operated by the City for any period exceeding 14 consecutive days. Each day in violation thereof shall constitute an additional offense. (Ord. No. 1061, 6/4/80)

**SECTION 2-208: PARKS; ALCOHOLIC LIQUORS**

It shall be unlawful for any person to sell, dispense or have in his or her possession or physical control any alcoholic liquor in any city park or other recreation area owned or operated by the City. The officer issuing any citation under this section shall forthwith impound any such alcoholic liquor as evidence and shall forthwith cause such person to be ejected from such park or recreational area for the remainder of the day in which such violation occurs. (Ord. No. 1089, 11/4/81)



## **Article 3 – Swimming Pool**

### **SECTION 2-301: OPERATION AND FUNDING**

The City owns and manages the city swimming pool. The City Council, for the purpose of defraying the cost of the management, maintenance, and improvements of the swimming pool may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the City that is subject to taxation. The revenue from the said tax shall be known as the park, pool, and recreation fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the swimming pool. The park, pool, and recreation fund shall at all times be in the custody of the city treasurer. The mayor or designee shall manage the swimming pool. The mayor, with the consent of the City Council, shall have the power and authority to hire and supervise the swimming pool manager and such employees as may be deemed necessary. The council shall pass such rules and regulations for the operation of the swimming pool as may be proper for its efficient operation. (Neb. Rev. Stat. §§17-948, 17-951, 17-952) (Am. Ord. No. 1255, 8/14/89)

### **SECTION 2-302: RULES AND REGULATIONS**

The City Council shall have the power and authority to enact bylaws, rules and regulations for the protection of those using the swimming pool and for the efficient management thereof and may provide suitable penalties for the violation of such bylaws, rules, and regulations. (Neb. Rev. Stat. §17-949) (Am. Ord. No. 1255, 8/14/89)

### **SECTION 2-303: ADMISSION CHARGE**

For the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the swimming pool, the City Council may by resolution make a reasonable admission charge for the use of the swimming pool by any person. The said charges shall be kept on file at the office of the city clerk and shall also be posted in a conspicuous place at the swimming pool for public inspection. Such rates may be structured for classes of persons in a reasonable manner; provided, nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons for admission charges. (Neb. Rev. Stat. §17-949) (Am. Ord. No. 1255, 8/14/89)

### **SECTION 2-304: RENTALS**

The City Council shall have the authority to rent the swimming pool to such organizations and other persons as it may in its discretion see fit. The council shall prescribe rules and regulations for such rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. Such fees and other costs as set by resolution shall be kept on file at the office of the city clerk and posted in a conspicuous place at the swimming pool. (Neb. Rev. Stat. §17-949) (Am. Ord. No. 1255,

8/14/89)



## **Article 4 – Auditorium**

### **SECTION 2-401: OWNERSHIP**

The City owns and manages the city auditorium through the City Council which, for the purpose of defraying the cost of the management, maintenance, and improvements on the auditorium, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the City that is subject to taxation. The revenue from the said tax shall be known as the auditorium fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the auditorium. The auditorium fund shall at all times be in the custody of the city treasurer. The City Council shall have the power to hire and supervise such employees as may be deemed necessary and shall pass such rules and regulations for the operation of the auditorium as may be proper for its efficient management. (Neb. Rev. Stat. §§17-953 through 17-955)

### **SECTION 2-402: POWER AND AUTHORITY OF COUNCIL**

The City Council shall have the power and authority to enact bylaws, rules, and regulations for the protection of the auditorium and the safety of those using the auditorium facilities. It may provide suitable penalties for the violation of such bylaws, rules, and regulations, subject to the supervision and review of the council. (Neb. Rev. Stat. §17-953)

### **SECTION 2-403: RENTALS**

A. The City Council, for the purpose of deferring the expenses involved in maintaining, improving, managing, and beautifying the auditorium may make a reasonable rental charge for the use of the auditorium by any person or organization. The council shall prescribe rules and regulations for such rentals. Rental rates as set by resolution may be structured for classes of persons and organizations in a reasonable manner; provided, nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons and organizations for rental purposes. All rental fees, rules, and regulations shall be kept on file for public inspection at the office of the city clerk.

B. All damage suffered by the auditorium during any rental shall be assessed against the person or organization responsible for the rental thereof or shall be deducted from the damage deposit which the City Council may in its discretion have required prior to the said rental. During any rental, the council may require the presence of persons deputized as city police to ensure that the said rules and regulations and the City Code are not violated. The wages of such persons shall be set by the City Council and shall be paid prior to the beginning of the rental period.

(Neb. Rev. Stat. §17-953)



## **Article 5 – Tree Board**

### **SECTION 2-501: MEMBERS; CEMETERY BOARD**

A. The mayor, with the approval of the City Council, shall appoint the Tree Board, which shall consist of five members who are residents of the City and who shall serve without compensation. Each member shall be appointed for a term of three years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term. The Tree Board shall choose its own officers, make its own rules and regulations and keep a record of its proceedings. A majority of the members shall be a quorum for the transaction of business. The City Council shall have the right to review the conduct, acts and decisions of the Tree Board.

B. The Tree Board shall also act as the Cemetery Board and shall perform the duties as set forth in the Cemetery Board, Article 6 herein.  
(Ord. No. 1297, 11/13/91)

### **SECTION 2-502: DUTIES AND RESPONSIBILITIES**

It shall be the responsibility of the Tree Board to study, investigate, counsel and develop and/or update annually a written plan for the care, replacement, maintenance, and removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the City Council and upon its acceptance and approval shall constitute the official comprehensive tree plan for the City. The Tree Board, when requested by the council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work. The city administrator is designated as the official representative of the Tree Board and is responsible for administration of the Community Forestry Program. (Ord. No. 1297, 11/13/91)

### **SECTION 2-503: INTERFERENCE WITH TREE BOARD**

It shall be unlawful for any person to prevent, delay or interfere with the Tree Board or any of its agents while they are engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees, or trees on private grounds, as authorized in this article.

### **SECTION 2-504: TREES; DEFINITIONS**

"Community forest" is herein defined as all street and park trees as a total resource.

"Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names and all areas owned by the City or to which the public has free access as a park.

"Street trees" are herein defined as trees, shrubs, bushes, and all other woody

vegetation on land lying between the property lines on either side of all streets, avenues or ways within the City.  
(Ord. No. 1297, 11/13/91)

#### **SECTION 2-505: TREES; SPACING**

The spacing of street trees will be in accordance with the three species size classes listed in the tree list and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect.

#### **SECTION 2-506: TREES; DISTANCE FROM CURB AND SIDEWALK**

The distance which trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in the tree list and no trees may be planted closer to any curb or sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; and large trees, 4 feet.

#### **SECTION 2-507: TREES; DISTANCE FROM STREET CORNERS AND HYDRANTS**

No street tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than 10 feet to any fire hydrant.

#### **SECTION 2-508: TREES; SPECIES NEAR UTILITIES**

No street trees other than those species listed as small trees in the tree list may be planted under or within 10 lateral feet of any overhead utility wire or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

#### **SECTION 2-509: TREES; PUBLIC TREE CARE**

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and location of said trees is in accordance with this article.

#### **SECTION 2-510: TREES; CONSENT OF PROPERTY OWNER**

The Tree Board shall plant no trees on public right-of-way without the consent of the adjacent property owners. Such consent shall be in writing and shall be maintained as part of the official Tree Board records.

**SECTION 2-511: TREES; PRUNING; CORNER CLEARANCE**

Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that they shall not obstruct the light from any street lamp or obstruct the view of any street intersection. There shall also be a clear space of 8 feet above the surface of the street or sidewalk.

**SECTION 2-512: TREES; TREATMENT OF PUBLIC TREES; TOPPING**

A. It is unlawful for any unauthorized person to damage, mutilate, transplant, or remove any tree on public property.

B. It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or other tree on public property. Tree topping on private property is strongly discouraged. "Topping" is defined as the severe cutting back of limbs to stubs larger than 3 inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this article at the determination of the Tree Board.

**SECTION 2-513: TREES; REMOVAL OF STUMPS**

All stumps of street and park trees shall be removed so that the top of the stump does not project above the surface of the ground.

**SECTION 2-514: TREES; PROTECTION OF PUBLIC TREES FROM INJURY**

Any tree located on city property which has potential for injury as a result of being in the immediate vicinity of any excavation, demolition or construction site of any building, structure, street or utilities work shall be protected from such injury.

**SECTION 2-515: TREES; PRIVATE PROPERTY OWNER'S RESPONSIBILITIES**

Any owner of private property abutting city parking/planting strips upon which street trees are located shall have the following responsibilities: (A) periodic watering and fertilization of such trees when necessary to maintain good health and vigor; (B) protection of street trees against damage caused by lawn mowers, weed trimmers, snow blowers and similar equipment.

**SECTION 2-516: TREES; PRIVATE PROPERTY OWNER; REQUESTS**

In cases where an owner of private real property abutting city property requests city actions on street trees or park trees, the requesting owner shall be financially responsible for the following:

A. Removal of trees, limbs or roots preventing house moving or other construction activities;

B. Removal of trees, limbs or roots for the alteration of tree or abutting property appearance where no hazard or nuisance exists.

#### **SECTION 2-517: TREES; ARBORIST'S LICENSE**

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the City without first applying for and procuring a license. The license fee shall be paid annually in advance; provided, no license shall be required of any public service company or city employee doing such work in the pursuit of public service endeavors. Said fee shall be set by the City Council by resolution and kept on file in the office of the city clerk for public inspection. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000.00 for bodily injury and \$100,000.00 for property damage, indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

#### **SECTION 2-518: TREES; PUBLIC NUISANCE DEFINED AND DESIGNATED**

The following are defined and declared to be public nuisances under this chapter. This section shall apply to trees and shrubs within the right-of-way of streets within the corporate limits of the City or on private property within the one-mile zoning jurisdiction beyond the corporate limits:

A. Any tree or shrub having a destructive or communicable disease or other pestilence which endangers the growth, health, life or well-being of trees, shrubs or plants in the City or which is capable of causing an epidemic spread of a communicable disease or insect infestation.

B. Any tree, shrub or portion thereof which, by reason of location or condition, constitutes an imminent danger to the health, safety or well-being of the general public on city property.

(Am. Ord. No. 1544A, 3/11/20)

#### **SECTION 2-519: TREES; RESPONSIBILITY FOR PUBLIC NUISANCE**

Where a nuisance exists upon property and is the outgrowth of the usual, natural or necessary use of property, the owner or agent, the landlord thereof or agent, the tenant or agent, and all other persons having control of the property on which such nuisance exists shall be deemed to be the authors thereof and shall be equally liable therefor.

#### **SECTION 2-520: TREES; NUISANCE; ABATEMENT PROCEDURE; NOTICE TO ABATE**

A. Upon determination by the Tree Board that any owner, occupant, or lessee

has failed to keep his or her real estate free from nuisances defined herein, the City Council shall thereupon cause notice in writing to be served on the owner, occupant or lessee of the real estate upon which a nuisance may be found. Said notice shall be given by publication and by certified mail. Such notice shall describe the condition as found by the Tree Board and state that said condition has been declared a public nuisance and that the condition must be remedied within a 14-day period.

B. If the person receiving the notice has not complied therewith or taken an appeal from the determination of the Tree Board within 14 days after receipt of certified mail or 14 days after date of publication, whichever is later, the board shall notify the City Council of such noncompliance and the City shall, upon receipt of such notice, cause a hearing date to be fixed and the notice thereof to be served upon the owner, occupant or lessee or agent of the real estate. Such notice of hearing shall be by personal service or certified mail and require such party or parties to appear before the City Council to show cause why such condition should not be found to be a nuisance and remedied. A return of service shall be required by the council. Such notice shall be given not less than five days prior to the time of hearing; provided, whenever the owner, occupant or lessee is a nonresident or cannot be found in the State, then the city clerk shall publish in a newspaper of general circulation in the City, such notice of hearing for two consecutive weeks, the last publication to be at least one week prior to the date set for hearing.

C. Upon the date fixed for hearing and pursuant to notice, the City Council shall hear all objections made by interested parties and shall hear evidence submitted by the Tree Board. If, after consideration of all evidence, the council shall find that said condition is a public nuisance, it shall by resolution order and direct the owner, occupant or lessee to remedy the said public nuisance at once; provided, the party or parties may appeal such decision to the appropriate court for adjudication, during which proceedings a decision of the City Council shall be stayed.

D. Should the owner, occupant or lessee refuse or neglect to promptly comply with the order of the City Council, it shall proceed to cause the abatement of the above-described nuisance. Upon completion of the work by the City, a statement of the cost of such work shall be transmitted to the council, which is authorized to bill the property owner or occupant or to levy the cost as a special assessment against the property. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments. Any action or failure to act by the Tree Board does not preclude action by the City Council to enforce this section.





## Article 6 – Cemetery Board

### SECTION 2-601: CEMETERY; OPERATION AND FUNDING

A. The City owns and manages the cemetery through the Cemetery Board which, for the purpose of defraying the cost of the care, management, maintenance, and beautification of the cemetery may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the City that is subject to taxation. The revenue from the said tax shall be known as the cemetery fund and shall include all gifts, grants, deeds of conveyance, bequests, money, stocks, bonds, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the cemetery. The cemetery fund shall at all times be in the custody of the city treasurer. The Cemetery Board shall have the power and authority to hire and supervise such employees as may be deemed necessary and to pass such rules and regulations for the operation of the cemetery as may be proper for its efficient operation.

B. The City Council may receive money by donation, bequest, or otherwise for credit to a perpetual fund to be invested as provided by ordinance or as conditioned by the donor. The income therefrom may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as the donor may designate. The principal therefrom may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as the donor may designate so long as no more than 20% of the principal is so used in any fiscal year and no more than 40% of the principal is so used in any period of ten consecutive fiscal years. The principal therefrom may also be used for the purchase and development of additional land to be used for cemetery purposes as the donor may designate so long as no more than 25% of the principal is so used in any fiscal year and no more than 35% of the principal is so used in any period of ten consecutive fiscal years.

C. This section does not limit the use of any money that comes to the City by donation, bequest, or otherwise that is not designated to be credited to the perpetual fund or that allows greater use for purchase or development of additional land to be used for cemetery purposes.

(Neb. Rev. Stat. §§12-301 through 12-403) (Am. Ord. No. 1255, 8/14/89)

### SECTION 2-602: MEMBERS; TREE BOARD

The Cemetery Board shall be comprised of the Tree Board members as provided in Section 2-501. Appointments, terms and officers shall coincide with those of the Tree Board. The Cemetery Board shall meet at such times as the City Council may designate. Special meetings may be held upon the call of the chairman or any two members of the board.

**SECTION 2-603: DUTIES**

A. The Cemetery Board shall:

1. Make recommendations to the city administrator concerning the general care, management, and supervision of the city cemetery.
2. Recommend, subject to the approval of the City Council, rules for enclosing, adorning, and erecting monuments and tombstones on cemetery lots and prohibiting any diverse or improper use thereof; provided, no religious tests shall be made as to the ownership of lots, the burial therein, and the ornamentation of graves.
3. Prescribe penalties and fines for violations of cemetery rules and regulations.

B. The board shall be responsible for making such reports and performing such additional duties as the City Council may designate. All actions of the board shall be subject to the review and supervision of the council.

(Am. Ord. No. 1290, 6/12/91)

**SECTION 2-604: CEMETERY; SEXTON**

The mayor, with the consent of the City Council, shall have the authority to appoint a sexton, who shall perform such duties and make such reports as the council shall direct. It shall be the duty of the sexton, upon receiving a burial permit, to locate and direct the party named in the permit to the lot mentioned therein and to dig and excavate the grave or cause the same to be dug or excavated in compliance with the rules and regulations of the council.

**SECTION 2-605: CEMETERY; CONVEYANCE OF LOTS**

The Cemetery Board may convey cemetery lots by certificate signed by the mayor and countersigned by the city clerk under the city seal, specifying that the person to whom the same is issued is the owner of the lot described therein by number for the purpose of interment. The said certificate shall give a right in fee simple to the proprietor, his or her heirs, and assigns. The certificate shall then be recorded in the office of the county clerk. (Neb. Rev. Stat. §17-941)

**SECTION 2-606: CEMETERY; FORFEITURE OF LOTS**

If, for three consecutive years, all charges and liens are not paid by the holders of the lot certificates, the said certificates shall be declared forfeited and subject to resale. All certificates sold shall contain a forfeiture clause to the effect that if no interment is made on the said lot and all liens paid, the certificate and the rights under the same may, at the option of the Cemetery Board, be declared null and void and the lot shall be subject to resale. (Neb. Rev. Stat. §17-938) (Am. Ord. No. 1255, 8/14/89)

**SECTION 2-607: CEMETERY; LOT TRANSFERS**

Any person who wishes to transfer a certificate may do so by surrendering the original certificate to the city clerk, who shall issue a new certificate upon the receipt of the recording fee set by resolution of the City Council.

**SECTION 2-608: CEMETERY; PERPETUAL CARE**

A. The city treasurer shall allocate and set apart a percentage of the entire amount paid for lots or burial spaces if the said lots or burial spaces are to be endowed with perpetual care. The fund shall be permanent in nature and as it accumulates shall be vested in such interest-bearing securities as are authorized by state law. The income earned thereon shall be used solely for the purposes of perpetual care for the cemetery lots. The principal of the perpetual fund may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery so long as no more than 20% of the principal is so used in any fiscal year and no more than 40% of the principal is so used in any period of ten consecutive fiscal years. The principal of the perpetual fund may also be used for the purchase and development of additional land to be used for cemetery purposes so long as no more than 25% of the principal is so used in any fiscal year and no more than 35% of the principal is so used in any period of ten consecutive fiscal years.

B. Any lot owner who shall not have endowed his or her holdings with perpetual care prior to purchasing the lot may do so by paying to the city clerk such sum of money as the City Council may in each case fix and determine. Thereafter, the owner shall not be liable for the payment of an annual maintenance assessment.

C. This section does not limit the use of any money that comes to the City by donation, bequest, or otherwise that is not designated to be credited to the perpetual fund or that allows greater use for purchase or development of additional land to be used for cemetery purposes.

(Neb. Rev. Stat. §12-402) (Am. Ord. No. 1255, 8/14/89)

**SECTION 2-609: CEMETERY; BURIAL AND DISINTERMENT**

All persons desiring to bury a deceased person shall first be required to comply with all requirements of state law before such body may be buried in the city cemetery. The interment of anybody shall be performed under the direct supervision of a licensed funeral director. The funeral director shall file with the city clerk a statement containing the name, age, sex, race, and cause of death of the deceased person for the records of the Cemetery Board. In the event that the removal of the body of any deceased person is requested, the city clerk shall issue no permit until the applicant shall have first complied with the laws of the State of Nebraska with respect to such disinterment.

(Neb. Rev. Stat. §71-605) (Am. Ord. Nos. 1243, 12/7/88; 1255, 8/14/89)

**SECTION 2-610: CEMETERY; BURIAL OF INDIGENTS**

Within the city cemetery there shall be included a plot of ground which shall be available for the free burial of indigents and unknown travelers who may die while they are within the City.

**SECTION 2-611: CEMETERY; DESTRUCTION OF PROPERTY**

Any person who shall willfully destroy, mutilate, deface, injure, or remove any tomb, monument, or gravestone placed in the cemetery or any fence, railing, or other work for the protection or ornamentation of the cemetery or who shall willfully destroy, cut, break, or injure any tree, shrub, or plant shall be deemed to be guilty of a misdemeanor. (Neb. Rev. Stat. §28-512)

**SECTION 2-612: CEMETERY; RECLAMATION**

When any lot has been transferred by warranty deed or by a deed conveying a fee simple title, but there has been no burial in any such lot or subdivision thereof and no payment of annual assessments for a period of three years, the City Council may reclaim the unused portion of such lot or subdivision after notifying the record owner or his or her heirs or assigns, if known, by certified mail and publishing notice of its intention to do so. Such notice shall be published once each week for four weeks in a newspaper of general circulation throughout the County, shall describe the lot or subdivision proposed to be reclaimed, and shall be addressed to the person in whose name such portion stands of record or, if there is no owner of record, to all persons claiming any interest in such lot or subdivision. If no person appears to claim such lot or subdivision and pay all delinquent assessments with interest within 15 days after the last date of such publication, the City Council may by resolution reclaim such lot or subdivision. Such reclamation shall be complete upon a filing of a verified copy of such resolution, together with proof of publication, in the office of the register of deeds. (Ord Nos. 1209, 11/5/86; 1255, 8/14/89)

## **Article 7 – Board of Health**

### **SECTION 2-701: MEMBERS; TERMS; OPERATION AND FUNDING**

The City Council shall appoint a Board of Health which shall consist of four members including the mayor, who shall serve as chairperson, the president of the council, and two other members. One member shall be a physician or health care provider if one can be found who is willing to serve. Such physician or health care provider if appointed shall be the board's medical advisor. If the mayor has appointed a chief of police, he or she shall serve on the board as secretary and quarantine officer. The members of the board shall serve, without compensation, a one-year term of office, unless reappointed, and shall reorganize at the first meeting in December of each year. No member of the Board of Health shall hold more than one Board of Health position. The board shall be funded by the City Council from time to time out of the general fund. (Neb. Rev. Stat. §17-121)

### **SECTION 2-702: OFFICERS; MEETINGS**

The secretary shall keep full and correct minutes and records of all meetings and file the same with the city clerk, where they shall be available for public inspection during office hours. A majority of the board shall constitute a quorum for the purpose of doing business. The board shall meet at such times as the City Council may designate. Special meetings may be held upon the call of the chairperson or any two members of the board. (Neb. Rev. Stat. §17-121)

### **SECTION 2-703: DUTIES**

The board shall enact rules and regulations which shall have the full force and effect of law to safeguard the health of the people of the City. The board shall enforce the rules and regulations and provide fines and punishments for any violations thereof. It may regulate, suppress, and prevent the occurrence of nuisances and enforce all state laws and city ordinances relating to nuisances and to matters of sanitation which affect the health and safety of the people. The board shall regularly inspect such premises and businesses as the City Council may direct. All members of the board shall be responsible for making such reports and performing such other duties as the council may designate from time to time. It shall be the duty of the Board of Health to work closely with the County Health Board in protecting the health and welfare of the residents of the City. (Neb. Rev. Stat. §17-121) (Am. Ord. No. 1402, 10/8/97)

### **SECTION 2-704: ENFORCEMENT OFFICIAL**

The city police chief, as the quarantine officer, shall be the chief health officer of the City. It shall be his or her duty to notify the City Council and the Board of Health of health nuisances within the City and its zoning jurisdiction. (Neb. Rev. Stat. §17-121)



## **Article 8 – Airport Authority**

(Neb. Rev. Stat. §§3-501 through 3-513)

### **SECTION 2-801: POWERS AND DUTIES**

The Airport Authority shall have the full and exclusive jurisdiction and control over all facilities owned or hereafter acquired by the City for the purpose of aviation operation, air navigation, and air safety operation. The authority is a body corporate and politic, constituting a public corporation and an agency of the City. The authority shall have such other powers and duties as may be prescribed by state law.

### **SECTION 2-802: MEMBERS; TERMS**

The Airport Authority shall consist of five members, who shall be nominated and elected in the manner provided by law for the election of other elected officials and shall take office as provided by state law. Members of the authority shall be residents of the City and shall serve terms of six years each. Two members shall be elected in each city election year; provided, in each third election year, one member only shall be elected to the authority.

### **SECTION 2-803: VACANCIES**

Any vacancy on the authority resulting from any other cause than the expiration of a term of office shall be filled by temporary appointment by the mayor, with the approval of the City Council, until a successor can be elected at the next general city election to serve the unexpired portion of the term. A member of the authority may be removed from office for incompetence, neglect of duty, or malfeasance in office. An action for the removal of such officer may be brought upon resolution of the City Council in the District Court of Brown County. (Neb. Rev. Stat. §§2-201 through 2-214) (Am. Ord. Nos. 1127, 1/5/83; 1237, 9/7/88)





## **Article 9 – Sales Tax Improvement Fund Advisory Board**

### **SECTION 2-901: DEFINITION**

The improvement fund's operation shall be derived from the additional sales and use tax imposed as set forth in Chapter 1, Civil Administration, Article 6, Fiscal Management, Section 1-633 of this code. (Ord. No. 1358, 10/12/94)

### **SECTION 2-902: MEMBERS; OPERATION**

A. The mayor with the approval of the council members shall appoint the Sales Tax Improvement Fund Advisory Board, which shall consist of eight members: six adult residents of the City and two students at Ainsworth High School, all of whom shall serve without compensation. The high school student board members shall serve two-year terms, except that the first members appointed from the school shall be a senior for a one-year term and a junior for a two-year term. The other members shall be appointed for a term of three years, except that the term of two of the members appointed to the first board shall be for a one-year term and two of the members of the first board shall be for a two-year term. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term by the mayor, subject to the approval of the City Council. No council member shall serve as a member of the Sales Tax Improvement Fund Advisory Board while serving a term of office as a council member.

B. The Advisory Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. The mayor, city administrator and City Council shall have the right to review the conduct, acts, decisions and recommendations of the board.

(Ord. No. 1358, 10/12/94)

### **SECTION 2-903: DUTIES AND RESPONSIBILITIES**

It shall be the responsibility of the Sales Tax Improvement Fund Advisory Board to study, investigate, accept comments and suggestions from citizens of the City and to make recommendations to the City Council for the use of the improvement fund monies. The Advisory Board shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work and make such reports and perform such additional duties as the City Council may designate from time to time. All actions of the board shall be subject to the review and supervision of the council. (Ord. No. 1358, 10/12/94)



## **Article 10 – Community Redevelopment Authority**

### **SECTION 2-1001: OPERATION**

The Ainsworth Community Redevelopment Authority shall function as a community redevelopment authority and shall have all the powers and authority granted to a community redevelopment authority set forth in Neb. Rev. Stat. §§18-2101 to 18-2154. (Ord. No. 1453, 6/13/02)

### **SECTION 2-1002: MEMBERS; TERMS**

The authority shall consist of five members serving five-year terms, as follows: the mayor of the City, the Brown County treasurer, the superintendent of Ainsworth Public Schools, the director of the North Central Development Center, and a businessperson selected by the mayor and approved by the City Council. As each term expires, the mayor, with the approval of the council, shall reappoint the member whose term expires or appoint a new member to the authority for a term of five years. (Ord. No. 1453, 6/13/02)

### **SECTION 2-1003: DUTIES**

The authority members shall work with tax increment projects (TIF), review all proposals, recommend issuance of TIF bonds, provide terms and provisions of the bond, pledge revenues of the authority pursuant to community redevelopment law, authorize sale of the bond, and provide for a grant and/or redevelopment contract.



## Article 11 – Housing Authority Commission

### SECTION 2-1101: CONTINUED EXISTENCE AS HOUSING AGENCY

A. The local Housing Authority established December 25, 1969 under prior state law and in existence on January 1, 2000 shall have continued existence as a housing agency under the Nebraska Housing Agency Act and shall conduct its operations consistent with the act. All property, rights in land, buildings, records, and equipment and any funds, money, revenue, receipts, or assets of the authority belong to the agency as successor. All obligations, debts, commitments, and liabilities of the authority are obligations, debts, commitments, and liabilities of the successor agency.

B. Any resolution by the Housing Authority and any action taken by the authority prior to January 1, 2000, with regard to any project or program which was to be completed within or to be conducted for a 12-month period following January 1, 2000, and which resolution or action was lawful under state law as it existed prior to January 1, 2000, is a lawful resolution or action of the successor agency and binding upon the successor agency and enforceable by or against the agency notwithstanding that such resolution or action is inconsistent with, not authorized by, or prohibited under the provisions of the act.

C. All commissioners of the Housing Authority and all officers, legal counsel, technical experts, directors, and other appointees or employees of the agency holding office or employment by virtue of any such prior law on January 1, 2000, shall be deemed to have been appointed or employed under the act.  
(Neb. Rev. Stat. §71-1576)

### SECTION 2-1102: OWNERSHIP

The Housing Authority is owned by the City and operated through the Housing Authority commissioners. The powers of the authority shall be vested in its commissioners in office, who shall carry out and effectuate the purposes and provisions of the Nebraska Housing Authority Law. (Neb. Rev. Stat. §§71-1594, 71-1595)

### SECTION 2-1103: COMMISSIONERS

A. The mayor shall appoint five persons as commissioners, with one commissioner appointed each year for a five-year term of office. All such persons shall be residents of the area of operation of the Housing Authority. When commissioners are appointed or reappointed by the mayor, such appointments or reappointments shall be referred to the City Council, which shall confirm or deny any such appointment or reappointment. A certificate of the appointment or reappointment of any commissioner shall be filed with the city clerk and such certificate shall be conclusive evidence of the proper appointment of such commissioner. However, if after appointment a commissioner ceases to reside in the local housing agency's area of operation, his or her term of office shall automatically terminate and a successor shall be appointed to fill such

vacancy in the manner provided in Neb. Rev. Stat. §§71-1594 to 71-15,105. Any commissioner who ceases to reside within the area of operation of the Housing Authority shall immediately so inform the board of commissioners and the mayor of his or her change in residence.

B. The City Council may appoint one of its members to serve as one of the five commissioners of the Housing Authority for such term as the council may determine. Notwithstanding any other provision of the Nebraska Housing Agency Act, it shall not be considered a conflict of interest if such person so appointed as a commissioner votes on any matter involving the City. If the council intends that a commissioner's appointment is made with the intention that such commissioner represent the City, then his or her certificate of appointment shall so state. If any such commissioner so appointed and designated ceases to serve as a member of the City Council, then his or her term of office shall automatically terminate and a successor shall be appointed to fill the vacancy in the manner provided in Neb. Rev. Stat. §§71-1594 to 71-15,105.

C. A commissioner shall receive no compensation for his or her services but shall be entitled to the necessary expenses, including travel expenses, incurred in discharge of his or her duties.

D. All vacancies shall be filled for the unexpired terms. A vacancy shall be filled not later than six months after the date of such vacancy by the same authority and in the same manner as the previous commissioner whose position has become vacant was appointed.

(Neb. Rev. Stat. §§71-1594, 71-1596, 71-1598; 71-1599, 71-15,100, 71-15,107)

#### **SECTION 2-1104: REMOVAL OF MEMBER**

A commissioner of the Housing Authority may be removed for neglect of duty, misconduct in office, or conviction of any felony by the mayor as provided in Neb. Rev. Stat. §71-15,105.

#### **SECTION 2-1105: MEETINGS; OFFICERS**

A majority of commissioners shall constitute a quorum for the purpose of conducting business, exercising powers, and for all other purposes. Action may be taken by the authority upon the vote of the majority of the commissioners present unless in any case the bylaws of the authority shall require a larger number. The commissioners shall elect a chairman and vice-chairman and shall have the power to employ an executive director who shall serve as *ex officio* secretary of the Housing Authority. (Neb. Rev. Stat. §§71-1594, 71-1595)

#### **SECTION 2-1106: EXECUTIVE DIRECTOR; EMPLOYEES; DUTIES**

The Housing Authority may employ legal counsel or engage the city attorney for such legal services as it may require unless such employment will result in an ethical or legal violation. The authority may employ accountants, appraisers, technical experts, and

such other officers, agents, and employees as it may require and shall determine their qualifications, duties, compensation, and terms of office. The authority may delegate to one or more of its agents or employees such powers and duties as it may deem proper. (Neb. Rev. Stat. §71-15,106)

### **SECTION 2-1107: GENERAL POWERS**

The Housing Authority shall possess all powers necessary, convenient, or desirable in carrying out the purposes of the Nebraska Housing Agency Act, exercising any power provided in the act, and engaging in any activity related to furthering the purposes of the act. Such powers shall include, but shall expressly not be limited to, the powers enumerated in this section and Neb. Rev. Stat. §71-15,113 or stated elsewhere in the act or in other applicable law. The powers enumerated in the act may be exercised singly or in any combination. The enumeration of any power shall not require, expressly or by implication, that the Housing Authority is required to exercise such power. (Neb. Rev. Stat. §71-15,112)

### **SECTION 2-1108: OPERATION AND MANAGEMENT**

A. The authority shall at all times observe the following duties with respect to rentals and tenant selection:

1. It may rent or lease dwelling accommodations therein only to persons of low income, elderly, or handicapped persons of low income and displaced persons in need.
2. There shall be no discrimination in the eligibility or occupancy of tenants on the basis of race, sex, marital status, religion, color creed, national origin, or ancestry.
3. The authority shall not accept any person as a tenant in any dwelling in the housing project if the persons who occupy the dwelling have an aggregate annual income which equals or exceeds the amount which the authority has conclusively determined to be sufficient to enable one to secure, safe, sanitary, and uncongested dwelling accommodations within the area served by the authority and to provide an adequate standard of living.
4. The authority may rent or lease to a tenant a dwelling consisting of a number of rooms which is deemed necessary to provide safe and sanitary accommodations to the occupants without overcrowding.
5. The authority shall fix income limits for occupancy and rents after taking into consideration: (a) the family size, composition, age, physical handicaps, and other factors which might affect the rent-paying ability of the person and (b) the economic factors which affect the financial stability and solvency of the project.

6. The authority may accept as a tenant any displaced person or persons in need, regardless of income, but in no event shall such person or persons remain as a tenant or tenants of the authority for more than a period of six months unless such persons also qualify as persons of low income, elderly, or handicapped persons of low income.
7. All persons of low income, elderly, or handicapped persons of low income, or displaced persons in need, shall be entitled to the benefits of this article and the authority may establish rules and regulations consistent with the purposes of this article concerning eligibility and occupancy of the housing project or other such shelter.
8. Nothing herein shall prohibit the right of the authority to inquire into the financial condition, family composition, medical, personal, and employment history of any tenant or prospective tenant.
9. The authority shall prohibit subletting by tenants.

B. The authority may establish rules and regulations from time to time consistent with federal and state laws and regulations and the purposes of this article concerning the termination of tenancy. Any tenant so terminated shall be sent a written notice of termination setting out the reasons for such termination, and any tenant served with a notice shall be given the opportunity to contest the termination in an appropriate hearing; provided, tenants who have created or maintained a threat constituting a serious and clear danger to the health or safety of other tenants or authority employees need not be given such a hearing by the authority. Such notice may provide that if the tenant (1) fails to pay rent or comply with any covenant or condition of the lease or the rules and regulations of such authority, (2) cure a violation or default thereof, as the case may be, as specified in such notice, or (3) follow the procedure for a hearing as set forth in the notice, all within the time or times set forth in such notice, the tenancy shall then be automatically terminated and no other notice or notices need be given of such termination or the intent to terminate the tenancy. Upon such termination and without any notice other than as provided for in this section, the authority may file suit against any tenant for recovery of possession of the premises and may recover the same as provided by law.

C. The authority may establish from time to time rules and regulations consistent with the purposes of this article concerning personal property of tenants and other persons located in projects of the authority, and if such personal property is not removed from a dwelling unit at the time of the termination of the lease, at the time of vacation or abandonment of the dwelling unit, or at the time of the death of any tenant, then the authority may remove the same and store such property at the tenant's risk and expense. In the event that possession of such personal property is not taken by the tenant or other person authorized by law to take possession within 45 days after such termination, vacation, or abandonment, and any storage removal charges remain unpaid, then the authority may at its option dispose of the personal property in any manner



which the authority deems fit, except that any proceeds from the disposal of such personal property shall be paid to the general fund of the City. No tenant or other person shall have any cause of action against the authority for such removal or disposition of such personal property.

(Am. Ord. No. 1125, 1/5/83)

## **SECTION 2-1109: RULES AND REGULATIONS**

The Housing Authority may establish from time to time rules and regulations consistent with the purposes of this article concerning the priority of eligible applicants for occupancy. The Authority may give preferential treatment to applicants who are service members or veterans, relatives of service members or veterans, disabled service members or veterans, the elderly or disabled, those in urgent need of adequate housing or who have no adequate source of income; provided, in any such system of priority, displaced persons in need shall have a priority ahead of all other persons; and provided further, no tenant in good standing then in occupancy and qualified for continued occupancy shall have tenancy terminated in order to provide dwelling units for classes or categories of applicants as the Authority may establish.

## **SECTION 2-1110: REPORTS**

The Housing Authority shall keep an accurate account of all its activities and of all its receipts and disbursements and shall make an annual report at the second regular meeting in January of each year to the City Council. Such report shall include all mortgages and other interests in real property held by the Housing Authority, including options to purchase and land sale contracts; a listing of all bond issues and their essential terms and obligations; and all other financial obligations of the Housing Authority over \$50,000.00. Such reports shall be considered public records. If there has been no change from the last report in the status of any of the items reported pursuant to this section, the Housing Authority may file a statement to that effect in lieu of the report.

(Am. Ord. No. 1126, 1/5/83)



## Article 12 – Planning Commission

(Neb. Rev. Stat. §§19-925 through 19-933)  
(Am. Ord. Nos. 1041, 7/5/79; 1060, 5/7/80; 1347, 9/14/94; 1373, 5/8/96; 1421, 8/12/98)

### SECTION 2-1201: OPERATION AND FUNDING

The City Council may provide the funds, equipment, and accommodations necessary for the work of the Planning Commission but the expenditures of the commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the council. No expenditures or agreements for expenditures shall be valid in excess of such amounts.

### SECTION 2-1202: MEMBERS

The Planning Commission shall consist of five regular members who shall represent, insofar as is possible, the different professions or occupations in the City and shall be appointed by the mayor by and with the approval of a majority vote of the City Council. Two of the regular members may be residents of the area over which the City is authorized to exercise extraterritorial zoning and subdivision regulation. When there is a sufficient number of residents in the area over which the City exercises extraterritorial zoning and subdivision regulation, one regular member of the commission shall be a resident from such area. If it is determined by the City Council that a sufficient number of residents reside in the area subject to extraterritorial zoning and subdivision regulation and no such resident is a regular member of the commission, the first available vacancy on the commission shall be filled by the appointment of such an individual. For purposes of this section, “a sufficient number of residents” shall mean ~~300~~/500 residents. All regular members of the commission shall serve without compensation.

### SECTION 2-1203: ALTERNATE MEMBER

The City may, by ordinance, provide for the appointment of one alternate member to the Planning Commission who shall be chosen by the mayor with the approval of the City Council. The alternate member shall serve without compensation. The term of the alternate member shall be three years, and he or she shall hold office until his or her successor is appointed and approved. The alternate member may be removed from office in the same manner as a regular member. If the alternate member position becomes vacant other than through the expiration of the term, the vacancy shall be filled for the unexpired portion of the term by the mayor with the approval of the City Council. The alternate member may attend any meeting and may serve as a voting and participating member of the commission at any time when less than the full number of regular commission members is present and capable of voting. (Am. Ord. Nos. 1041, 7/5/79; 1060, 5/7/80; 1347, 9/14/94; 1373, 5/8/96; 1421, 8/12/98)

### SECTION 2-1204: MEMBERSHIP RESTRICTIONS

A regular or alternate member of the Planning Commission may hold any other munici-

pal office except (A) mayor, (B) a member of the City Council, (C) a member of any Community Redevelopment Authority created under Neb. Rev. Stat. §18-2102.01, or (D) a member of any Citizen Advisory Review Committee created under Neb. Rev. Stat. §18-2715.

### **SECTION 2-1205: TERMS; VACANCIES**

The term of each regular Planning Commission member shall be three years. All regular members shall hold office until their successors are appointed. Any member may, after a public hearing before City Council, be removed by the mayor with the consent of a majority vote of the council members for inefficiency, neglect of duty, malfeasance in office, or other good and sufficient cause. Vacancies occurring other than through the expiration of term shall be filled for the unexpired portion of the term by the mayor. (Am. Ord. No. 1514, 6/13/11)

### **SECTION 2-1206: OFFICERS; MEETINGS**

The Planning Commission shall elect its chairman and secretary from its members and create and fill such other of its offices as it may determine. The terms of the chairman and secretary shall be one year and he or she shall be eligible for re-election. The commission shall hold at least one regular meeting in each calendar quarter, except the City Council may require the commission to meet more frequently and the chairman of the commission may call for a meeting when necessary to deal with business pending before the commission. If no business is pending before the commission, the chairperson may cancel a quarterly meeting but no more than three quarterly meetings may be cancelled per calendar year. A number of commissioners equal to a majority of the number of regular members appointed to the commission shall constitute a quorum for the transaction of any business. The commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file them with the city clerk, where they shall be available for public inspection.

### **SECTION 2-1207: POWERS AND DUTIES; APPEAL**

A. Except as provided in Neb. Rev. Stat. §§19-930 to 19-933, the Planning Commission shall (1) make and adopt plans for the physical development of the City, including any areas outside its boundaries which in the commission's judgment bear relation to the planning of such city and including a Comprehensive Development Plan as defined by Neb. Rev. Stat. §19-903; (2) prepare and adopt such implemental means as a capital improvement program, subdivision regulations, building codes, and a zoning ordinance in cooperation with other interested municipal departments; and (3) consult with and advise public officials and agencies, public utilities, civic organizations, educational institutions, and citizens with relation to the promulgation and implementation of the Comprehensive Development Plan and its implemental programs. The commission may delegate authority to any such group to conduct studies and make surveys for the commission, make preliminary reports on its findings, and hold public

hearings before submitting its final reports. The City Council shall not take final action on matters relating to the Comprehensive Development Plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning until it has received the recommendation of the Planning Commission. The City Council shall by ordinance set a reasonable time within which the recommendation from the commission is to be received. A recommendation from the commission shall not be required for subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights of way or easements is involved, and such subdivision complies with the ordinance requirements concerning minimum areas and dimensions of such lots and blocks, if the City Council has designated an agent by ordinance pursuant to Neb. Rev. Stat. §19-916.

B. The commission may, with the consent of the City Council, in its own name (1) make and enter into contracts with public or private bodies, (2) receive contributions, bequests, gifts, or grant funds from public or private sources, (3) expend the funds appropriated to it by the City, (4) employ agents and employees, and (5) acquire, hold, and dispose of property. The commission may on its own authority make arrangements consistent with its program, conduct or sponsor special studies or planning work for any public body or appropriate agency, receive grants, remuneration, or reimbursement for such studies or work, and at its public hearings, summon witnesses, administer oaths, and compel the giving of testimony.

C. The commission may grant conditional uses or special exceptions to property owners for the use of their property if the City Council has, through a zoning ordinance or special ordinance, generally authorized the commission to exercise such powers and has approved the standards and procedures adopted by the commission for equitably and judiciously granting such conditional uses or special exceptions. The granting of a conditional use permit or special exception shall only allow property owners to put their property to a special use if it is among those uses specifically identified in the zoning ordinance as classifications of uses which may require special conditions or requirements to be met by the owners before a use permit or building permit is authorized. The power to grant conditional uses or special exceptions shall be the exclusive authority of the commission, except that the City Council may choose to retain for itself the power to grant conditional uses or special exceptions for those classifications of uses specified in the zoning ordinance. The council may exercise such power if it has formally adopted standards and procedures for granting such conditional uses or special exceptions in a manner that is equitable and will promote the public interest. An appeal of a decision by the commission or City Council regarding a conditional use or special exception shall be made to the District Court.



## Article 13 – Board of Adjustment

(Neb. Rev. Stat. §§19-907 to 19-910,19-912)

### **SECTION 2-1301: APPOINTMENT; RESTRICTION ON POWERS**

The City Council, having adopted zoning regulations pursuant to Neb. Rev. Stat. §§19-901 to 19-915, has provided for the appointment of a board of adjustment. Any actions taken by the said board shall not exceed the powers granted by Section 2-804 herein.

### **SECTION 2-1302: MEMBERS; TERMS**

A. The mayor shall appoint, with the consent of the City Council, a Board of Adjustment which shall consist of five regular members plus one additional member designated as an alternate, who shall attend and serve only when one of the regular members is unable to attend for any reason. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another planning commissioner to the board. At least one member of the Board of Adjustment shall be a person who resides outside the corporate boundaries of the City but within its extraterritorial zoning jurisdiction if more than 200 persons reside within such area

B. Each member of the board shall serve a term of three years unless reappointed and shall be removable only for cause by the City Council upon written charges and after a public hearing. Any vacancy shall be filled for the unexpired term of any member whose term becomes vacant.

C. The members of the board shall serve without compensation and may be required, in the discretion of the City Council, to give a bond in a sum as set by resolution by the council and kept on file in the city office and conditioned upon the faithful performance of their duties.

### **SECTION 2-1303: OFFICERS; MEETINGS**

The Board of Adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to Neb. Rev. Stat. §§19-901 to 19-914. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. Such chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board of adjustment shall be open to the public. A majority of the board shall constitute a quorum for the purpose of doing business. The secretary shall keep minutes of the proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official

actions, all of which shall be immediately filed in the office of the board and shall be a public record.

## **SECTION 2-1304: POWERS AND DUTIES**

A. It shall be the duty of the board:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by a municipal official based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;
2. To hear and decide, in accordance with the provisions of the zoning regulations, requests for interpretation of any map; and
3. When by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this section and Neb. Rev. Stat. §§19-901, 19-903 to 19-904.01, and 19-908 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution.

B. No such variance shall be authorized by the board unless it finds that:

1. The strict application of the zoning regulation would produce undue hardship;
2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
4. The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice. No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to



be adopted as an amendment to the zoning regulations.

C. In exercising the above-mentioned powers, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such municipal official or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

D. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

E. In exercising the powers granted within this section, the board may, in conformity with Neb. Rev. Stat. §§19-901 to 19-915, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

(Neb. Rev. Stat. §§19-907 through 19-910) (Am. Ord. No. 1373, 5/8/96)

## **SECTION 2-1305: APPEAL; PROCEDURE**

A. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, officer, department, board, or bureau of the City may present to the district court a petition duly verified, setting forth that such decision is illegal in whole or in part and specifying the grounds of such illegality. Such petition

must be presented to the court within 15 days after the filing of the decision in the office of the board. Upon the filing of such petition a summons shall be issued and served upon the Board of Adjustment, together with a copy of the petition. Return of service shall be made within four days after the issuance of the summons. Within ten days after the return day of such summons, the Board shall file an answer to the petition which shall admit or deny the substantial averments of the petition and shall state the contentions of the board with reference to the matters in dispute as disclosed by the petition. The answer shall be verified in like manner as required for the petition.

B. At the expiration of the time for filing answer, the court shall proceed to hear and determine the cause without delay and shall render judgment thereon according to the forms of law. If, upon the hearing, it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his or her findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. The appeal to the district court shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order. Any appeal from such judgment of the district court shall be prosecuted in accordance with the general laws of the State regulating appeals in actions at law.

(Neb. Rev. Stat. §19-912) (Ord. No. 1163, 11/7/84)

## Article 14 – Other Boards and Committees

### SECTION 2-1401: PURPOSES

In addition to those previously named in this chapter, the following boards and committees have been established and shall have the following functions and purposes:

A. *Ainsworth Betterment Committee (ABC)*. Six residents who are registered voters and two students (one from the junior class and one from the senior class), all appointed by the mayor. The ABC funds are 20% of 1% local option sales tax designated for community improvement projects. The committee is responsible for analyzing and prioritizing all projects and their potential to improve the Ainsworth community. The ABC will then make its recommendation to the City Council for project funding.

B. *Committee on Housing*. Three-year terms. Six members who are Ainsworth residents, appointed by the mayor. The committee is responsible for reviewing potential community development block grant housing rehabilitation fund loan applications as well as program guidelines and make recommendations for project funding to the City Council.

C. *LB 840 Advisory Board/Citizen Advisory Review Board*. Four-year terms. Five members who are registered Ainsworth city voters, including two recommended by the Chamber of Commerce; however, all are appointed by the mayor. Criteria for serving are further outlined in the Economic Development Plan as adopted by the voters. The sixth member is the city administrator as ex-officio member. Review the function and progress of the economic development program and advise the City Council as to the same. Meet regularly as required to review the program and report to the council at least once every six-month period on its findings and suggestions at a public hearing.

D. *LB 840 Loan Committee*. Three-year terms. Five members who must be registered voters of the City and have financial and business qualifications, appointed by the mayor. The sixth member is the city administrator as ex-officio member. Review all financials; make recommendations to the council in regard to funding and terms of the loans. LB840 fund is a .5% local option sales tax.

E. *Municipal Golf Course Foundation Account Committee*. Six-year terms. Six members, two appointed by the mayor. Account set up through the Brown County Foundation. Money donated to this account is to assist the city-owned golf course in improving infrastructure and purchasing maintenance equipment of the course. Infrastructure projects are improvements to the grounds such as watering system, cart paths and maintenance of equipment storage sheds (does not include structures such as clubhouse, rental cart sheds).

F. *Sellers-Barton Cabin Advisory Board*. Three-year terms. Six members, all appointed by the mayor. Make recommendations to the City on any needs that may

arise in operation/maintenance of the cabin.

## **Article 15 – Penal Provision**

### **SECTION 2-1501: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.