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CHAPTER 2 – COMMISSIONS AND BOARDS

Article 1 – Park and Recreation Board

SECTION 2-101: PARKS; 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. by Ord. No. 1255, 8/14/89; 1527, 6/11/14)

SECTION 2-102: MEMBERS; APPOINTMENT

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

SECTION 2-103: MEETINGS; OFFICERS; QUORUM

The members of the Park and Recreation Board shall first meet and elect one of its members as chairman and another member as secretary. Thereafter, said election shall be in January of 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 Park and Recreation Board shall consist of three board members. The board shall meet as necessary to fulfill its duties. (Ord. No. 1527, 6/11/14)

SECTION 2-104: DUTIES; HIRING OF RECREATION DIRECTOR

A. 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 shall coordinate all programs and sponsors. The board shall also be responsible for the scheduling of all activities set up by the recreation director, as provided hereafter. 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

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 recreation 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. 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.
6. Perform such other duties as the job description shall designate; and

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

SECTION 2-105: PARKS; INJURY TO PROPERTY

It shall be unlawful for any person to maliciously or willfully cut down, injure, or destroy any tree, plant, or shrub. It shall be unlawful for any person to injure or destroy any sodded or planted area or injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the city parks and recreational areas. No person shall commit any waste on or litter the city parks or other public grounds.

SECTION 2-106: 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 park 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 2-107: 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 recreational 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 recreational 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 2-108: PARKS; SALE, POSSESSION OF ALCOHOLIC LIQUORS PROHIBITED

It shall be unlawful for any person to sell or dispense or have in his/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 2 – Swimming Pool

SECTION 2-201: 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. by Ord. No. 1255, 8/14/89)

SECTION 2-202: 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. by Ord. No. 1255, 8/14/89)

SECTION 2-203: ADMISSION CHARGE

For the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the swimming pool, the City Council may make a reasonable admission charge for the use of the swimming pool by any person. The said charges shall be 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. by Ord. No. 1255, 8/14/89)

SECTION 2-204: 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 City 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 shall be 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. by Ord. No. 1255, 8/14/89)

Article 3 – Library Board

SECTION 2-301: 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. (Neb. Rev. Stat. §51-201)

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. (Neb. Rev. Stat. §51-209)

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. (Am. by Ord. No. 1469, 10/8/03)

SECTION 2-302: MEMBERS; BOND

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 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 2-303: OFFICERS; MEETINGS

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. (Neb. Rev. Stat. §51-204)

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.

(Am. by Ord. Nos. 1099, 2/3/82; 1469, 10/8/03)

SECTION 2-304: GENERAL 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. (Neb. Rev. Stat. §51-205)

B. The Library Board shall have exclusive control of expenditures of all money collected or donated to the credit of the Library Fund, of 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. (Neb. Rev. Stat. §51-207)

C. The Library Board shall have the power to appoint a suitable librarian and assistants, to fix their compensation, and to remove such appointees at pleasure. It shall have the power to 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. It shall have the power to fix and impose, by general rules, 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. The Board shall have and exercise such power 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. §51-211) (Ord. No. 1469, 10/8/03)

SECTION 2-305: ANNUAL REPORT

The Library Board shall, on or before the second Monday in February of 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 Library Board. (Neb. Rev. Stat. §51-213) (Ord. No. 1479, 11/11/04)

SECTION 2-306: GROUNDS AND BUILDING

A. 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. (Ref. 51-210 RS Neb.)

B. The Board may erect, lease, or occupy an appropriate building for the use of the library. (Neb. Rev. Stat. §51-211) (Ord. No. 1469, 10/8/03)

SECTION 2-307: SALE AND CONVEYANCE OF REAL ESTATE

The Library Board may by resolution direct the sale and conveyance of any real estate owned by the Board or by the 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 and as otherwise provided in Neb. Rev. Stat. §51-216. (Neb. Rev. Stat. §51-216) (Ord. No. 1469, 10/8/03)

SECTION 2-308: 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. 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 2-309: 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 2-310: LIBRARY; COST OF USE

A. Except as provided in subsection (B) of this section, the city library shall be forever free to the use of the city residents, subject always to such reasonable regulations as the Library Board may adopt to render the library of the greatest use to such residents. 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. (Neb. Rev. Stat. §51-212)

B. The library shall make its basic services available without charge to all residents of the City. The Library Board may fix and impose reasonable fees, not to exceed the library's actual cost, for non-basic services. For purposes of this section:

1. "Basic services" shall include but not be limited to free loan of circulating print and non-print materials from the local collection and general reference and information services; and
2. "Non-basic services" shall include but not be limited to 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) (Am. by Ord. No. 1469, 10/8/03)

SECTION 2-311: 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. §51211) (Ord. No. 1469, 10/8/03)

SECTION 2-312: LIBRARY; IMPROPER 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. (Ord. No. 1469, 10/8/03)

SECTION 2-313: LIBRARY; DAMAGED AND LOST BOOKS; PENALTY

Any person who injures or fails to return any book taken from the library shall forfeit and pay to the library not less than the value of the book, in addition to any replacement cost and penalty which the Library Board may assess.

SECTION 2-314: LIBRARY; 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.

SECTION 2-315: 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 Library 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 city treasury and credited to the budget of the city attorney's office. (Neb. Rev. Stat. §51-214) (Ord. No. 1469, 10/8/03)

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 City 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 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 on file for public inspection at the office of the city clerk during office hours.

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 insure 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, except that the term of two of the members appointed to the first Board shall be for only one year and the term of two members of the first Board shall be for two 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. (Ord. No. 1297, 11/13/91)

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.

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 FIRE 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 insure 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 and filed in the office of the city clerk for public inspection during office hours. 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:

A. Any tree or shrub located on private property 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 located on private property 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.

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/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 Tree 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

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. (Neb. Rev. Stat. §12-301 through 12-403) (Am. by 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. by 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 City 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/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. by 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

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. Any lot owner who shall not have endowed his/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. (Am. by 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 any body 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. by 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 in which the cemetery is located, 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 No. 1209, 11/5/86; 1255, 8/14/89)

Article 7 – Board of Health

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

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 City 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/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.

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.

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 ordinances of the City 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. by 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/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

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. The members 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 Airport 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. by 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 is as set forth in Section 5-203 (C) of this code. (Ord. No. 1358, 10/12/94)

SECTION 2-902: MEMBERS; OPERATION

A. The mayor with the approval of the City Council 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 City 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 moneys. 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: MEMBERS; TERMS

The Ainsworth Community Redevelopment Authority shall consist of five members, the initial members being the mayor of the City for a one-year term, the Brown County treasurer for a two-year term, the superintendent of Ainsworth Public Schools for a three-year term, the director of the North Central Development Center for a four-year term, and a business person selected by the mayor and approved by the Council for a five-year term. As each term expires, the mayor, with the approval of the City 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 2-1002: 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)

Article 11 – Housing Authority

SECTION 2-1101: OWNERSHIP

The Housing Authority is owned by the City and operated through the Housing Authority Commission. The Housing Authority shall constitute a body corporate and politic and shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Nebraska Housing Authority Law. (Neb. Rev. Stat. §71-1529)

SECTION 2-1102: CONTINUED EXISTENCE

The Housing Authority established under state law prior to December 25, 1969, shall have continued existence after that date under the Nebraska Housing Authority Law. All commissioners of such Authority and all officers, legal counsel, technical experts, directors, and other appointees or employees of such authority holding office or employment by virtue of prior state law on December 25, 1969 shall be deemed to have been appointed or employed by the mayor under the provisions of the Nebraska Housing Authority Law and shall from that date forward conduct their operations consistent with the provisions of that Act. (Neb. Rev. Stat. §71-1527)

SECTION 2-1103: COMMISSIONERS

A. *Terms; Compensation.* The City Council shall appoint five persons who shall constitute the Housing Authority and such persons shall be called the commissioners. One commissioner shall be appointed each year and the term shall commence on August 8 following the appointment. Each commissioner shall serve a five-year term of office. Commissioners shall receive no compensation for their services but they shall be entitled to the necessary expenses, including travel expenses, incurred in discharge of their duties.

B. *Meetings; Officers.* Three commissioners shall constitute a quorum for the purpose of conducting its business, exercising its powers, and for all other purposes. Action may be taken by the Authority upon the vote of a 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 from among the commissioners and shall have the power to employ an executive director who shall serve as official secretary of the Authority.

C. *Experts' Assistance.* The Authority may also employ legal counsel or it may call upon the chief law officer of the City for such services as it may require. It may employ technical experts and such other officers, agents, and employees as it may require and shall determine their qualifications, duties, compensations, and terms of office. The Authority may delegate such other powers and duties to its agents or employees as it may deem proper.

D. *Conflict of Interest.* During his/her tenure, and for one year thereafter, no commissioner, officer, or employee of the City Housing Authority shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project or in any contract or proposed contract relating to any housing project. If any such commissioner, officer, or employee involuntarily acquires any such interest or voluntarily or involuntarily acquired any such interest prior to appointment or employment as commissioner, officer, or employee, he/she shall immediately disclose such interest in writing to the Authority and such disclosure shall be entered upon the minutes of the Authority. He/she shall not then participate in any action by the Authority relating to the property or contract in which he/she has any such interest; provided, nothing herein shall apply to the acquisition of any interest in notes or bonds of the Authority issued in connection with any housing project, to the execution of agreements by banking institutions for deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services, the rates for which are fixed or controlled by a governmental agency.

E. *Removal of Member.* The mayor may remove a commissioner for neglect of duty or misconduct in office in the manner prescribed hereinafter. He/she shall send a notice of removal to such commissioner containing a statement of the charges against him/her. Unless such commissioner files with the clerk a request for a hearing before the City Council within ten days from the receipt of such notice, the commissioner shall be deemed as removed from office. If a request for a hearing is filed with the clerk, the Council shall hold a hearing at which the commissioner shall have the right to appear in person or by counsel and the Council shall determine whether the removal shall be disapproved or upheld. If the removal is disapproved, the commissioner shall continue to hold the position.

F. *Records; Report.* The Housing Authority shall keep an accurate account of all its activities and of all its receipts and disbursements and shall make a report to the City Council on all such information.

(Neb. Rev. Stat. §71-1524 through 71-1526, 71-1552)

SECTION 2-1104: DEFINITIONS

Except as otherwise specifically provided, the definitions and terms set out in the Nebraska Statutes relating to housing authorities under the Nebraska Housing Authority Law are hereby adopted by reference as they now exist or may hereafter be amended. (Neb. Rev. Stat. §71-1522)

SECTION 2-1105: 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 from time to time rules and regulations 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 ap-

propriate 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.

(Neb. Rev. Stat. §71-1536) (Am. by Ord. No. 1125, 1/5/83)

SECTION 2-1106: 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. (Neb. Rev. Stat. §71-1547)

SECTION 2-1107: 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. (Neb. Rev. Stat. §71-1552) (Am. by Ord. No. 1126, 1/5/83)

Article 12 – Planning Commission

SECTION 2-1201: OPERATION AND FUNDING

The Planning Commission shall be funded by the City Council from time to time out of the General Fund. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the City Council and no expenditures nor 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 residents. (Am. by Ord. No. 1514, 6/13/11)

SECTION 2-1203: TERMS

The term of each regular member shall be three years, except that two regular members of the first Commission shall serve for terms of one year, two for terms of two years, and one for terms of three years. All regular members shall hold office until their successors are appointed. (Am. by Ord. No. 1514, 6/13/11)

SECTION 2-1204: REMOVAL

Any member may, after a public hearing before the City Council, be removed by the mayor with the consent of a majority vote of the members elected to the City Council for inefficiency, neglect of duty, malfeasance in office or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by the mayor.

SECTION 2-1205: COMPENSATION; BOND

All regular members of the Commission shall serve without compensation and shall hold no other city office except when appointed to serve on the Board of Adjustment as provided in Neb. Rev. Stat. §19-908. All members of the Commission may be required, in the discretion of the City Council, to give bond in a sum set by resolution of

the Council, and conditioned upon the faithful performance of their duties.

SECTION 2-1206: OFFICERS

The Commission shall elect its chairperson and a secretary from its members and create and fill such other of its offices as it may determine. The term of the chairperson and the secretary shall be one year and they shall be eligible for reelection. No member of the Commission shall serve in the capacity of both chairperson 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 them with the city clerk, where they shall be available for public inspection during office hours.

SECTION 2-1207: MEETINGS

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 hold at least one regular meeting in each calendar quarter, except the City Council may require it to meet more frequently. The chairperson of the Commission may call for a meeting when necessary to deal with business pending before the body. Special meetings may also be held upon the call of any three members of the Commission.

SECTION 2-1208: DUTIES

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. The Commission shall 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 the City. The Commission shall carry out the other duties and exercise the powers specified in Neb. Rev. Stat. §19-929. All actions by the Commission shall be subject to the review and supervision of the mayor and City Council. The Commission shall make its recommendations to the Council so that they are received by the Council within 60 days after the Commission begins consideration of a matter relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning. The Commission shall be responsible for making such reports and performing such other duties as the City Council may designate from time to time.

SECTION 2-1209: ALTERNATE MEMBER

The mayor, with the approval of a majority vote of the City Council, shall appoint one alternate member to the Commission, who shall serve without compensation and hold no other city office. The term of the alternate member shall be three years and the office shall be held until a 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 a majority vote 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. (Neb. Rev. Stat. §19-924 through 19-929) (Am. by Ord. Nos. 1041, 7/5/79; 1060, 5/7/80; 1347, 9/14/94; 1373, 5/8/96; 1421, 8/12/98)

Article 13 – Board of Adjustment

SECTION 2-1301: MEMBERS; TERMS

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. 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. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. 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 immediate loss of membership on the Board of Adjustment and the appointment of another planning commissioner to the Board. After the effective date of this section, the first vacancy occurring on the Board of Adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the City at such time as more than 200 persons reside within such area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside the corporate boundaries of the City but within its extraterritorial zoning jurisdiction.

SECTION 2-1302: COMPENSATION; BOND

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 set by resolution of the City Council and conditioned upon the faithful performance of their duties.

SECTION 2-1303: OFFICERS

The Board shall organize at its first meeting in June of each year and elect from its membership a chairperson and secretary. It shall be the duty of the secretary to keep complete and accurate minutes of all Board meetings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. The secretary shall keep records of the examinations and other official actions of the Board, all of which shall be immediately filed in the office of the Board and shall be public record.

SECTION 2-1304: MEETINGS

All meetings of the Board shall be open to the public and shall be held at such times as the City Council may designate or at such other times as the chairperson may, in discretion, call a meeting. Special meetings may be also held upon the call of any three members of the Board. A majority of the Board shall constitute a quorum for the purpose of doing business. The Board shall adopt rules in accordance with the provisions of Neb. Rev. Stat. §19-901 to §19-914.

SECTION 2-1305: DUTIES

A. It shall be the duty of the Board to:

1. Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by a city official based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;
2. Hear and decide, in accordance with the provisions of the zoning regulations, requests for interpretation of any map; and
3. Where 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 zoning regulation 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 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 city 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. The Board shall be responsible for making such reports and performing such other duties as the City Council may designate. No member of the City Council shall serve as a member of the Board of Adjustment. No member of the Board of Adjustment shall serve in the capacity of both chairperson and secretary of the Board. (Neb. Rev. Stat. §19-907 through 19-910) (Am. by Ord. No. 1373, 5/8/96)

SECTION 2-1306: APPEAL HEARING PROCEDURES

Appeals to the Board of Adjustment should be made and conducted in the following manner:

A. Notice of appeal from any decision of the zoning administrator of the City of Ainsworth or from any other board, commission, or officer of the City, which appeal may properly be heard by the Board, shall be given to the Board and to the officer from whom the appeal was taken within 20 days from the date the final decision in writing was given by said zoning administrator, city board or commission, or city officer.

B. The chairman of the Board of Adjustment shall fix a reasonable time for such appeal hearing, which hearing date will not be later than 20 days following the filing of the notice of appeal.

C. Notice of the time, place and purpose of the hearing upon which the appeal is based shall be published in a newspaper of general circulation in said City not less than five days prior to the date of such hearing.

D. The city clerk shall give by certified mail at least five days prior written notice of the time, place and purpose of such hearing to the appellant, which notice may be waived by the appellant.

E. The city clerk shall give notice to any other person or adjacent landowner deemed necessary by the Board of Adjustment.

F. The hearing shall be open to the public.

G. Each party to the proceeding shall have the right to counsel and the right to cross-examine witnesses.

H. The appellant shall have the right to remain silent and shall not be required to testify against himself/herself unless first voluntarily testifying on his/her own behalf.

I. The hearing shall be conducted in the following order:

1. Opening statement of appellee (i.e. zoning administrator).
2. Opening statement of appellant.
3. Direct examination of appellee's witnesses with cross-examination and re-direct examination allowed for each witness.
4. Examination of appellant's witnesses with cross-examination and re-direct examination.
5. Testimony by any interested person not called by one of the parties to the proceedings. Each party to the proceeding may cross-examine such person.
6. The appellee shall then have the right to produce any rebuttal evidence.
7. Closing statement of appellee.
8. Closing statement of appellant.
9. Rebuttal of appellee, if any.

J. A concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter on which it is required to pass under any such regulation or to effect any variation in such regulation.

K. The Board of Adjustment shall make a determination concerning the appeal within 15 days from the date of the hearing. Such determination may be made on the night of the public hearing at said hearing or may be made at a subsequent public hearing by the Board within 15 days of the hearing. (Ord. No. 1163, 11/7/84)

Article 14 – Penal Provision

SECTION 2-1401: 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 no 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.