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CHAPTER 2 – BOARDS AND PUBLIC FACILITIES

Article 1 – Tree Board

SECTION 2-101: TREES; DEFINITIONS

"Park trees" are defined as trees, shrubs, bushes and all other woody vegetation in public parks.

"Private community forest" is defined as all trees within municipal boundaries but not on land owned by the city.

"Public community forest" is defined as all street and park trees, and other trees owned by the city as a total resource.

"Street trees" are defined as trees, shrubs, bushes, and all other woody vegetation on land within the city lying between the property lines on either side of all streets and avenues within the city.

(Ord. No. 99-08, 10/5/99)

SECTION 2-102: MEMBERS; TERMS OF OFFICE; COMPENSATION

A. The city tree board, known as the Bassett/Rock County Community Forestry Association, shall consist of five members who shall be appointed by the mayor with approval of the City Council.

B. The terms of the five persons shall be three years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for a new three-year term.

C. Members of the Tree Board shall serve without compensation.

SECTION 2-103: OPERATION

The Tree 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.

SECTION 2-104: DUTIES AND RESPONSIBILITIES

A. It shall be the responsibility of the Tree Board to study, investigate, counsel and develop and/or update annually, and administer written plans (annual and long range) 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 their acceptance and approval shall constitute the official comprehensive city tree plan.

B. The Tree Board, when requested by the City Council, shall consider, investigate, make findings, reports and recommendations upon any special matter or question relating to trees.

SECTION 2-105: TREES; STREET TREE SPECIES TO BE PLANTED

The city shall maintain an extensive list of recommended trees for planting in public areas. The purpose of this listing will be to maintain diversity in the total tree population. This list shall be available to residents of the city upon request to aid in the selection of trees for private and public properties. The list of recommended trees shall be updated periodically to reflect new developments or species that will affect the public community forest.

SECTION 2-106: TREES; DISTANCES AND CLEARANCES FOR PLANTING

A. Street trees may be planted in the tree lawn where spacing allows for tree growth between the edge of the sidewalk and the curb of the street. The homeowner shall first obtain permission from the city to plant a tree in order to determine adequate planting space and proper species.

B. Safety distances also will be determined by the city for distance to the street corner, from a fireplug or other city utilities.

SECTION 2-107: TREES; PERMITS REQUIRED

No person shall plant or remove a street tree or park tree without first obtaining permission from the city. There will be no fee for permission. The city may designate by motion a member of the City Council, a member of the Tree Board, or the mayor as the individual to grant or deny such permission.

SECTION 2-108: TREES; TREE CARE

A. The Tree Board shall have the right to plant, prune, maintain, and remove trees, plants and shrubs within the right-of-way or bounds of all streets, alleys, lanes, squares, and public grounds as may be necessary to insure the public safety.

B. The city may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to electric power lines or other public improvement, or is seriously affected with any fatal disease.

C. Responsibility of the homeowners includes watering the tree(s) and contacting the city if any of the above mentioned conditions warrant the city's attention.

D. The city shall have the right to cause to be removed or repaired any tree within the city limits or at the park that is dead or has been declared a hazard. "Hazard trees" are defined as trees with severe structural defects or splits. The city shall notify

in writing the owners of such trees of the appropriate action to be taken. Removal or repair is the responsibility of the owners of such trees and shall be accomplished within time limits set by the Tree Board.

SECTION 2-109: TREES; MAINTENANCE; TOPPING PROHIBITED

Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions may require maintenance and removal of limbs as determined by the Tree Board. However, it shall be unlawful as a normal practice for any person, firm, or city department to remove by topping or cutting into any street tree, park tree, or other tree on public property. "Rounding off" or "topping" is defined as the systematic cutting back of limbs within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

SECTION 2-110: TREES; REMOVAL OR REPAIR; NOTICE

Upon notification by the Tree Board of the need to have any tree or trees removed or repaired pursuant to 2-108 (Tree Care) herein, then the mayor may give informal notice to the owner of the real estate upon which the tree or trees are located directing the owner to complete such removal or repair as determined by the Tree Board. If informal notice is given, and the tree or trees are not removed or repaired as required, then written notice shall be given by the mayor to the owner or the owner's duly authorized agent, if any, by personal service or certified mail of the determination that it is necessary to remove or repair the said tree or trees and of the deadline for removal of the same. Within five days after receipt of such notice, if the owner of the lot or piece of ground upon which the tree or trees are located does not request a hearing with the city or fails to comply with the directive to remove or repair the tree or trees by the deadline set forth in the notice, then the city may have such work done just as though the city had made a declaration of nuisance as set forth in Section 3-404 (Notice Procedure; Abatement). (Ord. No. 2010-08, 10/6/10)

SECTION 2-111: TREES; DUE PROCESS RIGHTS

In the event that the owner or owner's duly authorized agent of the lot or piece of ground upon which trees are located which have been determined must be removed or repaired or if the affected parties for which a permit has been denied as required in Section 2-107 (Permits Required) should dispute such determination, then the due process rights as set forth in Section 3-404 of this municipal code shall apply including the appeal procedures set forth therein. (Ord. No. 2010-08, 10/6/10)

SECTION 2-112: TREES; FAILURE TO REMOVE OR REPAIR

In the event that the owner or owner's duly authorized agent should fail to remove or repair any tree within the timeframe as set forth in the notice given to him or her as set forth elsewhere in this article, then the city may have such work done. The costs and expenses for any such work shall be paid by the owner. (Ord. No. 2010-08, 10/6/10)

SECTION 2-113: TREES; ASSESSMENT OF COSTS

Whenever the city has work done that is reasonably necessary or expedient to repair or remove trees as set forth in this article, the costs and expenses of any such work shall be paid by the owner of the lot or piece of ground upon which the trees were located. If the costs and expenses are unpaid for two months after such work is done, the city may either (A) levy and assess the costs and expenses of such work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements that are levied and assessed, (B) recover in a civil action the costs and expenses of the work upon the lot or piece of ground, or (C) may use both options to recover such costs in the manner as set forth in the assessment of costs for abatement and removal of a nuisance as provided in Section 3-404. (Ord. No. 2010-08, 10/6/10)

SECTION 2-114: INTERFERENCE

It shall be unlawful for any person to prevent, delay or interfere with the Tree Board or any of its representatives or agents while they are engaging in and about the planting, cultivating, mulching, pruning, spraying, watering, or removing of any trees within the public community forest.

SECTION 2-115: ARBORISTS; CONTINUING EDUCATION; INSURANCE

Persons or firms engaged in the business or occupation of pruning, treating or removing any street tree, park tree or other privately owned tree are encouraged to continue their training and education. Tree technicians must carry evidence of liability insurance and workmen's compensation.

SECTION 2-116: PENALTIES

In addition to the penalty provided in Section 2-701 for damage to the city or park grounds, fences, trees or other vegetation, the city may seek civil damages in a court of law for any loss occasioned by any violation of this article. (Ord. No. 2004-02, 3/2/04)

Article 2 – Cemetery

SECTION 2-201: CEMETERY TAX; FUND

The mayor and City Council, for the purposes of defraying the cost of the care, management, improvements, beautification and welfare of the city cemetery, may each year levy a tax on all the real estate and personal property that is subject to taxation according to the laws of the state. Said taxes shall be collected and paid to the treasurer as taxes for general municipal purposes are collected and paid to the city. When such taxes are collected and paid over to the treasurer, they shall constitute and be known as the cemetery fund and shall be used for the general care, management, improvement, beautification and welfare of the city cemetery and shall be used for no other purpose. The cemetery fund and all moneys inuring thereto shall always remain in the custody of the treasurer and shall be disbursed only by the treasurer strictly in accordance with the provisions of this chapter, by warrants drawn by the City Council in the manner hereinafter provided.

SECTION 2-202: MANAGEMENT

Effective October 1, 2007, pursuant to Neb. Rev. Stat. §§12-530 and 17-926 through 17-943, all inclusive, the mayor and City Council became responsible for the management and operation of the cemetery belonging to the city, Bassett Memorial Park Cemetery.

SECTION 2-203: RECORDS

The records of the city cemetery shall be kept in the office of the city clerk or at such other convenient place as the City Council may determine to be best suited for the administration of the affairs of the cemetery. All of its records, plats, papers, correspondence and documents shall be safely kept and preserved in said office.

SECTION 2-204: SEXTON; SPECIAL POLICE

The City Council is hereby authorized to appoint a sexton, who shall serve until removed by the council. The sexton shall perform such duties and shall receive as compensation a sum agreed upon between the sexton and the council and adopted by ordinance. The sexton shall be a special police officer, without pay, when appointed as such by the mayor and confirmed by the council.

SECTION 2-205: ASSISTANTS; EQUIPMENT

The City Council is hereby empowered to employ such labor and assistants as may be needed in caring for, improving, beautifying and maintaining the city cemetery and to purchase implements, equipment and materials suitable and necessary for such purposes from among persons not belonging to the Cemetery Board.

SECTION 2-206: BURIAL RATES; REGULATIONS; LOT PRICES; OFFICIAL PLAT

A. The City Council shall have the authority to set burial rates and to adopt reasonable rules and regulations for the management and operation of the Bassett Memorial Park Cemetery by resolution adopted by the City Council. The rules and regulations so adopted shall be filed with the city clerk.

B. Lots as originally platted for the cemetery are hereby divided into burial spaces. Each burial lot shall contain six burial spaces.

C. The purchase prices of lots and burial spaces shall include one schedule of prices adequate to provide for the perpetual care of said lot as well as the cemetery in general. The purchase prices of the lots and burial spaces, fixed as aforesaid, with and without perpetual care, shall be exhibited in the city office on a map or plat therein. Future additions to the cemetery shall likewise be platted.

D. No unoccupied burial space shall be sold for less than an amount set by resolution by the City Council and kept on file in the office of the city clerk. One-half of such fee shall be used for perpetual care.

E. The city clerk is authorized to re-purchase any unused cemetery space from the original owner or successor in title, upon proof of ownership thereof, for an amount per space as set by resolution by the City Council and kept on file in the office of the city clerk.

F. All owners of lots, partial lots or spaces who have not endowed their holdings with perpetual care shall pay an annual assessment to the city in the amount as set by the City Council and kept on file in the office of the city clerk. Such funds shall be used for general maintenance of the owner's lot, partial lot or space and for general maintenance of the cemetery.

SECTION 2-207: CONVEYANCE OF BURIAL SPACES; DEEDS

A. The city clerk is hereby authorized and directed to receive payment for all burial spaces sold in the city cemetery at the purchase price set by resolution by the City Council and kept on file in the office of the city clerk. Upon receipt of the purchase price in cash or its equivalent, the city clerk shall issue the burial permit as provided in this chapter. The city is authorized to convey lots and parts of lots and burial spaces in the city cemetery by a deed signed by the mayor and countersigned by the city clerk under the seal of the city specifying that the person to whom the same is issued is the owner of the lot, partial lot or spaces described therein by number, as laid down on the cemetery map or plat, for purposes of interment; said deed(s) shall vest in the purchaser or his or her heirs or assigns; and a right in fee simple to such lot, lots, part of lot or burial space, for the sole purpose of interment under the regulations governing the cemetery. The deed shall be entitled to be recorded in the office of the register of

deeds of Rock County without further acknowledgement; and such description of lots, parts of lot or burial space shall be deemed to be recognized as a sufficient description thereof.

B. Burial lots shall not be held and used for speculation and no owner of burial spaces shall permit interment in or upon any space held by said individual for compensation. All deeds issued shall be recorded. The grantee of each lot, part of lot or burial space shall pay to the register of deeds the fee as set by him or her for recording expenses. Transfers of ownership of spaces, lots or partial lots shall be by quitclaim deed from the current owner and shall be delivered to the city clerk after recording by the register of deeds, for noting the same on the official records of the cemetery, in addition to the real estate records.

SECTION 2-208: INTERMENT OR DISINTERMENT AUTHORIZED; COSTS OF GRAVE DIGGING

A. The City Council shall have authority over the digging and excavation of all graves regardless of the method of interment used. The interment, disinterment or reinterment of a deceased human body shall be performed under the direct supervision of a licensed funeral director and embalmer authorized to practice within the State of Nebraska, as required by law. The licensed funeral director and embalmer conducting the burial shall be required to furnish information setting forth the name, age, sex, race, date of death and cause of death (if known) of said decedent sought to be buried. The information shall be filed in the office of the city clerk, whereupon he or she shall authorize the excavation of the grave for the burial and interment of said deceased person.

B. It shall be the duty of the city clerk to charge and collect for excavating and digging graves, whether for a casket or for cremated remains, the sum set by the City Council by resolution and kept on file in the office of the city clerk. Upon receipt of the grave digging charge as aforesaid, the city clerk shall issue an order to the sexton before the said grave shall be dug.

C. It shall be the duty of the sexton, upon receiving a burial permit signed by the city clerk, to locate and direct the party or parties named in the burial permit to the lot or part of a lot mentioned therein. The digging of graves shall be conducted only by employees or other personnel authorized by the city. Graves shall not be less than 6 feet deep; provided, this regulation shall not be construed to prohibit the use of mausoleums or other recognized methods of interring dead bodies if desired by lot purchasers and approved by the City Council.

D. Burial of cremated remains of a decedent may occur only with the approval of the person or persons authorized by law to have control of the remains of a deceased person.

E. Every person seeking to have a human body disinterred from a burial space

shall obtain the appropriate permit as required by law and said disinterment shall be under the direct supervision of a licensed funeral director and embalmer, who shall comply with state law and regulations. Upon being provided the permit for disinterment by the licensed funeral director and embalmer, the city clerk shall authorize the excavation of the grave for the disinterment of the body. The charge for disinterment shall be the same as the charge for digging a grave for burial, with additional charges for actual additional costs incurred by the city for any extraordinary services provided in addition to excavation services.

SECTION 2-209: BURIALS PROHIBITED IN OTHER PLACES

No burial shall be permitted in any church yard or any other place within the limits of the city.

SECTION 2-210: SUNDAY FUNERALS

No burial permits shall be issued by the city clerk for a funeral to be held on the first day of the week commonly called Sunday, except where an emergency exists. The question as to whether or not an emergency exists shall be decided by the City Council.

SECTION 2-211: FREE BURIAL PLAN

The City Council shall set apart, whenever it may be deemed necessary, a sufficient portion of the city cemetery grounds as a free burial place for the interment of any indigent person who may die within the city. Such grounds shall be kept and ornamented the same as the rest of the cemetery.

SECTION 2-212: CARE OF LOTS; PERPETUAL CARE

The city shall care for all the lots, parts of lots or burial spaces in the cemetery now platted or to be platted and shall keep said lots and grounds free from weeds. All owners of lots, partial lots or spaces who have not endowed their holdings with perpetual care shall pay an annual assessment as provided in Section 2-206(F).

SECTION 2-213: PERPETUAL CARE FUND

A. There is hereby established a permanent fund to be called the Bassett Memorial Park Cemetery perpetual care fund. Of the amount arising from the sale of lots or burial spaces in the cemetery, the treasurer shall allocate and set apart, if said lot has been endowed with perpetual care, as directed by resolution of the City Council, an amount never exceeding 83 $\frac{1}{3}$ % but not less than \$0.50 per square foot for each lot or portion of lot sold as the Bassett Memorial Park Cemetery perpetual care fund. The fund shall be a permanent fund. As the funds accumulate, the same shall be invested and kept invested in such interest-bearing securities as the board shall deem advisable and the income therefrom shall be used in the care, upkeep, ornamentation or maintenance of such lots and burial spaces and the city cemetery in general.

B. The city may receive money by donation, bequest or otherwise to be held in trust in perpetuity. The money so received shall be invested as the Bassett Memorial Park Cemetery perpetual care fund and the income derived therefrom shall be expended as the perpetual care fund is expended or as the donor may designate. The treasurer shall be the custodian of the fund, which shall be invested by him or her; and whenever investments are made, the nature and character of the same shall be reported to the City Council and the investment report shall be made a matter of record by the city clerk in council proceedings. All other money, including income from the perpetual care fund, accruing to the cemetery fund shall be credited, allocated, kept and disbursed by the treasurer under the heading of the Bassett Memorial Park Cemetery general fund. The treasurer shall take custody and control of any and all money in the two funds hereinbefore mentioned and the same shall hereafter be managed as provided in this chapter.

(Neb. Rev. Stat. §§12-201 through 12-403)

SECTION 2-214: PERPETUAL CARE FUND; GIFTS AND GRANTS

Gifts, grants, bequests or devises of money will be received from any person for the perpetual care of any lot or part of lot in the cemetery. Such gift, grant, bequest or devise shall be absolute and the entire title to such money shall be in the name of the City of Bassett. Such money shall not be less than \$100.00 for a whole lot and not less than \$50.00 for a half lot. Such money shall inure to and belong to Bassett Memorial Park Cemetery perpetual care fund and only the income from such fund shall be expended.

SECTION 2-215: PERPETUAL CARE FUND; RECEIPT AND ACCEPTANCE OF MONEY

Upon receipt and acceptance of such money by the city, the donor shall be issued a receipt and contract whereby the city agrees to give perpetual care to the lot or part of lot described in the receipt. Such receipt shall be signed by the mayor under the seal of the city; and the custodian of the cemetery records shall enter on the record(s) the fact of such receipt and acceptance.

SECTION 2-216: PERPETUAL CARE FUND; INVESTMENT

All money received for the cemetery perpetual care fund shall be invested in securities as authorized for investment by municipal governments which shall be insured or backed by the pledging of securities as other funds for municipal governments for the State of Nebraska.

SECTION 2-217: PERPETUAL CARE FUND; INCOME

All of the income derived from the money belonging to Bassett Memorial Park Cemetery perpetual care fund shall inure to the cemetery fund and shall be used for care and maintenance of the cemetery.

SECTION 2-218: PERPETUAL CARE FUND; LIMITATIONS

This Article 2 is subject to any and all limitations of Neb. Rev. Stat. Chapter 12, Article 3 and Chapter 17, Article 9(c), as amended.

Article 3 – Board of Health

(Neb. Rev. Stat. §17-121) (Ord. No. 97-02, 3/4/97)

SECTION 2-301: MEMBERS; TERMS

A. The Board of Health shall consist of four members appointed by the City Council: the mayor, who shall serve as chairman; the council president; 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. In the event no physician resides within the city, the mayor shall appoint a citizen at large to serve instead. If the mayor has appointed a chief of police, he or she shall serve on the board as secretary and quarantine officer. If the city has a contract with the Rock County sheriff for law enforcement services, the mayor may appoint the county sheriff to serve as secretary and quarantine officer.

B. The members of the Board of Health, other than the mayor, president of the council, and chief of police, shall serve terms of office of the length specified by the City Council and may be reappointed. No member of the Board of Health shall hold more than one board position. The members of the board shall serve without compensation. The Board of Health shall be funded by the City Council from time to time out of the general fund.

SECTION 2-302: MEETINGS; OFFICERS

The Board of Health shall meet at such times as the City Council may designate. The board shall reorganize at its meeting after appointments are regularly considered by the council and, if necessary, select a member to serve as secretary. A majority of the board shall constitute a quorum for the purpose of doing business. 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. Special meetings may be held upon the call of the chairman or any two members of the board.

SECTION 2-303: DUTIES

It shall be the duty of the Board of Health to 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 shall actively enforce all state laws and city ordinances relating to nuisances and 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. The board shall be responsible for making such reports, prescribing such penalties, and performing such other duties as the council may designate from time to time. All actions of the Board of Health shall be subject to the review and supervision

of the council.

SECTION 2-304: ENFORCEMENT OFFICIAL

The police chief, if appointed as the quarantine officer, shall be the chief health officer of the city. It shall then 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.

SECTION 2-305: STATE RULES

The *Rules and Regulations Relating to Public Health*, Department of Health of the State of Nebraska, is hereby incorporated by reference when the same are applicable to the city, in its present form and as it may hereafter be amended. (Neb. Rev. Stat. §18-132)

SECTION 2-306: COUNTY HEALTH BOARD

It shall be the duty of the Board of Health to work closely with the County Health Board, if any, in protecting the health and welfare of the residents of the city.

Article 4 – Planning Commission

(Neb. Rev. Stat. §§19-924 through 19-929)

SECTION 2-401: MEMBERS

The Planning Commission shall consist of five 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 500 residents. 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.

SECTION 2-402: ALTERNATE MEMBER

The mayor, with the approval of a majority vote of the City Council, may by ordinance provide for the appointment of one alternate member to the commission, who shall serve without compensation and shall hold no other city office. 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 a majority 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.

SECTION 2-403: 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.

SECTION 2-404: OFFICERS; MEETINGS

The Planning Commission shall elect its chairman from its members and create and fill such other of its offices as it may determine. The term of the chairman 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. 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.

SECTION 2-405: FUNDING

The City Council may provide the funds, equipment, and accommodations necessary for the work of the Planning Commission but its expenditures, exclusive of gifts, shall be within the amounts appropriated for that purpose by the council; and no expenditures nor agreements for expenditures shall be valid in excess of such amounts.

SECTION 2-406: 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 5 – Board of Adjustment

SECTION 2-501: MEMBERS

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. No member of the council shall serve as a member of the Board of Adjustment. 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. 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. 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 council and conditioned upon the faithful performance of their duties.

B. Each member of the board shall serve a term of five 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.

SECTION 2-502: OFFICERS; MEETINGS

The Board of Adjustment shall organize at its first meeting in May each year and elect from its membership a chairman and secretary. No member of the board shall serve in the capacity of both chairman 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, 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. 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 chairman may, in his or her discretion, call a meeting. Special meetings may be also held upon the call of any three members of the board. Four members 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 2-503: POWERS AND DUTIES; APPEALS; INTERPRETATION OF MAPS; VARIANCES

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. No such variance shall be authorized by the board unless it finds that:
 - a. The strict application of the zoning regulation would produce undue hardship;
 - b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
 - c. 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
 - d. 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.

B. 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.

C. 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.

D. 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)

SECTION 2-504: 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 of Adjustment 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)

Article 6 – Housing Authority

SECTION 2-601: APPOINTMENT; TERMS; CITY REPRESENTATIVE

A. The City Council determined by resolution or ordinance as set forth in Neb. Rev. Stat. §71-1578 that it was expedient to establish a local housing agency. The mayor shall appoint five adult persons who constitute the governing body of the Housing Authority and they shall be called commissioners. One of the commissioners shall be a tenant of Meadow View Apartments.

B. When commissioners are appointed or reappointed by the mayor, such appointments or reappointments shall be referred to the City Council for confirmation or denial and the council 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. The commissioners shall be appointed for terms of five years each. Board members take office on July 15 each year.

C. 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. In the event that the City 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. In the event that any such commissioner so appointed and designated shall cease 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.
(Neb. Rev. Stat. §§71-1594, 71-1596, 71-1598, 71-15,100, 71-15,103)

SECTION 2-602: QUALIFICATIONS; REQUIREMENTS

Every commissioner shall be a resident of the area of operation of the Housing Authority. However, if after appointment a commissioner ceases to reside in the Housing Authority'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 in which such commissioner serves shall immediately so inform the board of commissioners and the mayor of his or her change in residence. No person who has been convicted of a felony shall be eligible for appointment or service as a commissioner. (Neb. Rev. Stat. §71-15,101)

SECTION 2-603: VACANCIES

All vacancies shall be filled for the unexpired terms. A vacancy shall be filled by the

mayor in the same manner as the previous commissioner whose position has become vacant was appointed. (Neb. Rev. Stat. §71-1599)

SECTION 2-604: REMOVAL; PROCEDURE

A commissioner of may be removed for neglect of duty, misconduct in office, or conviction of any felony by the mayor, who shall send a notice of removal to such commissioner. The notice shall set forth the charges against him or her. Unless within ten days from the receipt of such notice the commissioner files with the city clerk a request for a hearing before the City Council, the commissioner shall be deemed removed from office. If a request for hearing is so filed, the council shall hold a hearing not sooner than ten days after the date a hearing is requested, at which hearing the commissioner shall have the right to appear in person or by counsel and the City Council shall determine whether the removal shall be upheld. If the removal is not upheld by the council, the commissioner shall continue to hold his or her office. (Neb. Rev. Stat. §71-15,105)

SECTION 2-605: OFFICERS; EXECUTIVE DIRECTOR; EMPLOYEES

The commissioners shall elect a chairperson and vice-chairperson from among the commissioners and shall have power to employ an executive director, who shall serve as *ex officio* secretary of the Housing Authority. The authority may also employ legal counsel or engage the city attorney for such legal services as the authority may require unless such employment or engagement will result in an ethical or legal violation. The authority may employ accountants, appraisers, technical experts, and such other officers, agents, and employees as may be required and shall determine their qualifications, duties, compensation, and terms of office. The Housing 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 2-606: POWERS; QUORUM; EXECUTIVE COMMITTEE

The powers of the Housing Authority shall be vested in its commissioners in office. A majority of the commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Except for any matter with respect to which the resolution or ordinance creating the Housing Authority or its bylaws requires a higher number or proportion of votes, action may be taken by the agency upon the vote of a majority of the commissioners present and voting. All actions taken by the board of commissioners shall be presumed valid unless otherwise shown by clear and convincing evidence. (Neb. Rev. Stat. §§71-1595, 71-15,105)

SECTION 2-607: EXPENSES

A commissioner shall receive no compensation for his or her services but shall be entitled to reimbursement for necessary expenses, including travel expenses, incurred in connection with the discharge of his or her duties on the same basis as provided in Neb. Rev. Stat. §§81-1174 to 81-1177. (Neb. Rev. Stat. §71-15,107)

SECTION 2-608: CONFLICT OF INTEREST; PROHIBITED ACTS

A. Except as otherwise permitted under the provisions of Neb. Rev. Stat. §§71-15,149 to 71-15,157, no Housing Authority official shall own or hold an interest in any contract or property or engage in any business, transaction, or professional or personal activity that would:

1. Be or appear to be in conflict with such official's duties relating to the Housing Authority;
2. Secure or appear to secure unwarranted privileges or advantages for such official or others; or
3. Prejudice or appear to prejudice such official's independence of judgment in the exercise of his or her official duties relating to the Housing Authority.

B. No Housing Authority official shall act in an official capacity in any matter in which such official has a direct or indirect financial or personal involvement. The ownership of less than 5% of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section. No Housing Authority official shall use his or her public office or employment to secure financial gain to such official.

C. Except as otherwise permitted by the provisions of Neb. Rev. Stat. §§71-15,149 to 71-15,157, the Housing Authority shall not, with respect to any Housing Authority official, during his or her tenure or for a period of one year thereafter, either:

1. Award or agree to award any contract to such Housing Authority official or other local government official;
2. Purchase or agree to purchase any real property from such Housing Authority official or other local government official, or sell or agree to sell any real property to such Housing Authority official or other local government official;
3. Permit any Housing Authority official to represent, appear, or negotiate on behalf of any other party before the Housing Authority's board of commissioners or with its other officials or employees;
4. Employ any commissioner for compensation or otherwise;
5. Employ any local government official, or any member of such official's immediate family, if such official's duties involve the exercise of authority relating to the Housing Authority; or
6. Employ for compensation any member of the immediate family of a Hous-

ing Authority, if such employment creates the relationship of direct supervisor or subordinate between family members or otherwise creates a real or apparent conflict of interest.

(Neb. Rev. Stat. §71-15,150)

SECTION 2-609: CONFLICT OF INTEREST; DISCLOSURE REQUIRED

If (A) a Housing Authority official becomes involved in an activity or, through inheritance or other involuntary cause or circumstance, acquires an interest that violates any provision of Neb. Rev. Stat. §§71-15,149 to 71-15,157 or (B) a local government official, after becoming employed by the authority, is requested to act in an official capacity with respect to a matter affecting his or her duties as an employee of the Housing Authority, the authority or local government official shall immediately and fully disclose in writing to the Housing Authority's board of commissioners the circumstances giving rise to the conflict of interest. In the case of a local government official, such disclosure shall also be made to the local government served by such official. Upon receipt of any disclosure of actual or potential conflict of interest, the Housing Authority shall promptly cause such disclosure to be entered in its minutes. (Neb. Rev. Stat. §71-15,151)

Article 7 – Penal Provision

SECTION 2-701: 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.