

ARTICLE VI - ELECTIONS

SECTION 1-601: ELECTION OF OFFICERS; CERTIFICATION

All city elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide general election. No later than July 1 of each even-numbered year, the City Council shall certify to the secretary of state, the election commissioner or the county clerk, the name of the City, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining terms, and the number of votes to be cast by a registered voter for each office. ▫

(Ref. Neb. Rev. Stat. §16-302.01, 32-401, 32-404, 32-532, 32-556)

SECTION 1-602: PRIMARY ELECTION; NUMBER OF CANDIDATES FILING

If the number of candidates properly filed for nomination at the primary election does not exceed two for each vacancy to be filled, all candidates properly filed shall be considered nominated and no primary election for their nomination shall be required. ▫

SECTION 1-603: TIE VOTES

In the case of a tie vote of any of the candidates in either the primary or general election, the county clerk shall notify such candidates to appear at his/her office on a given day and hour to determine the same by lot before the canvassing board, and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail. ▫

(Ref. Neb. Rev. Stat. §32-1122)

SECTION 1-604: FILING FEE

Prior to the filing of any nomination papers, there shall be paid to the city treasurer a filing fee which shall amount to 1% of the annual salary for the office for which the candidate will file; provided, there shall be no filing fee for any candidate filing for an office in which a per diem is paid rather than a salary or an office for which there is a salary of less than \$500.00 per year. No nominating papers shall be filed until the proper city treasurer's receipt, showing payment of the filing fee, shall be presented to the election officer with whom the nomination papers are to be filed. ▫

(Ref. Neb. Rev. Stat. §32-608)

SECTION 1-605: VOTER QUALIFICATIONS

"Elector" shall mean a person of the constitutionally prescribed age or upwards, who shall have the right to vote for all officers to be elected to public office and upon all questions and proposals lawfully submitted to the voters at any and all elections authorized or provided for by the Constitution or the laws of the State of Nebraska, except school elections; provided, no person shall be qualified to vote at any elec-

tion unless such person shall be a resident of the State and shall have been properly registered with the election official of the county. ▫
(Ref. Neb. Rev. Stat. §17-602, 32-110)

SECTION 1-606: PETITION CANDIDATES

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

2. Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his/her name placed on the general election ballot if a vacancy exists on the ballot under subsection (1) of Neb. Rev. Stat. §32-626 and the candidate files for the office by petition as prescribed in this section. ▫

3. The number of signatures of registered voters needed to place the name of a candidate upon the nonpartisan ballot for the general election shall be at least 10% of the total number of registered voters voting for governor or president of the United States at the immediately preceding general election in the City. ▫

4. The number of signatures of registered voters needed to place the name of a candidate upon the partisan ballot for the general election shall be at least 20% of the total vote for governor or president of the United States at the immediately preceding general election within the City, not to exceed 2000. ▫

5. Petitions for nomination shall conform to the requirements of Neb. Rev. Stat. §32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. Petitions shall be signed by registered voters residing in the City and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. Rev. Stat. §32-607. Petition signers and circulators shall conform to the requirements of Neb. Rev. Stat. §32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing payment of the required filing fee. The petitions shall be filed by September 1 in the year of the general election. ▫

(Ref. Neb. Rev. Stat. §32-616 through 32-618)

SECTION 1-607: NOMINATION BY WRITE-IN VOTES

Candidates for elected office may be nominated by write-in; however, when the name of a candidate who did not file or become a petition candidate for nomination is written in and voted for as a candidate for City Council, such person shall not be entitled to a certificate of nomination at a statewide primary election or have his/her name placed on the general election ballot unless such person shall have received not less than 20% of the total vote cast for the candidate receiving the greatest

number of votes in the precinct or ward at the preceding election in which candidates were elected to serve the precinct or ward. ▫

SECTION 1-608: SPECIAL JOINT ELECTIONS

1. Any issue to be submitted to the registered voters at a special election by the City shall be certified by the city clerk to the election commissioner or county clerk at least 50 days prior to the election. A special election may be held by mail as provided in Neb. Rev. Stat. §32-952 through 32-959. No special election to be conducted by the election commissioner or county clerk shall be held within 30 days prior to or 60 days after the statewide primary election, and no special election to be conducted by the election commissioner or county clerk shall be held within 30 days prior to or 60 days after the statewide general election. ▫

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

3. After the election commissioner or county clerk has received the certification of the issue to be submitted, he/she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the city clerk shall be responsible for the publication or posting of any required special notice of the submission of such issue other than the notice required to be given of the statewide election issues. The election commissioner or county clerk shall prepare the ballots, issue absentee ballots and conduct the submission of the issue, including the receiving and counting of the ballots. The election returns shall be made to the election commissioner or county clerk. The ballots, including absentee ballots, shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the county canvassing board, the election commissioner or county clerk shall certify the election results to the City Council. The canvass by the county canvassing board shall have the same force and effect as if made by the City Council. ▫

(Ref. Neb. Rev. Stat. §32-559)

SECTION 1-609: CERTIFICATE OF NOMINATION OR ELECTION

The county clerk shall, within 40 days after the election, prepare, sign and deliver a certificate of nomination or certificate of election to each person whom the canvassing board has declared to have received the highest vote for each municipal office. A certificate of election prepared by the city clerk shall be as near as possible to the form prescribed in Neb. Rev. Stat. §32-1033 and shall be signed by the mayor under the seal of the City and countersigned by the city clerk. ▫

(Ref. Neb. Rev. Stat §32-558 and 32-1033)

SECTION 1-610: INABILITY TO ASSUME OFFICE

In any general election where the person who received the highest number of votes is ineligible, disqualified, deceased, or for any other reason is unable to assume the office for which he/she was a candidate and the electorate had reasonable notice of such disability at the time of election, the candidate in such election who received the highest number of votes shall be declared elected and shall be entitled to the certificate of election, provided that any candidate so declared elected received not less than 35% of the total number of votes cast for such office in the election. If any of the qualifications of this section are not met by the candidate to be declared elected, or reasonable notice of the winner's ineligibility is not available to the voters, a vacancy in such office shall be declared to exist at the time of commencement of the term and shall be filled as prescribed by law. ◻

SECTION 1-611: RECALL PROCEDURE

1. Any or all of the elected officials of the City may be removed from office by recall pursuant to Neb. Rev. Stat. §32-1301 to 32-1309. ◻

2. Petition circulators shall conform to the requirements of the Election Act. The petition papers shall be procured from the city clerk. Each petition paper shall conform to the requirements of state law. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the city clerk by at least one registered voter. Such voter(s) shall be deemed to be the principal circulator(s) of the recall petition. The affidavit shall state the name and office of the official sought to be removed and shall request that the city clerk issue initial petition papers to the principal circulator for circulation. The city clerk shall notify the principal circulator that the necessary signatures must be gathered within 30 days from the date of issuing petitions. ◻

3. The city clerk, upon issuing the initial petition papers or any subsequent petition papers, shall enter in a record, to be kept in his/her office, the name of the principal circulator to whom the papers were issued, the date of issuance, and the number of papers issued. The clerk shall certify on the papers the name of the principal circulator to whom the papers were issued and the date they were issued. No petition paper shall be accepted as part of the petition unless it bears such certificate. The principal circulator who checks out petitions from the city clerk may distribute such petitions to registered voters residing in the City who may act as circulators of such petitions. ◻

4. Petition signers shall conform to the requirements of the Election Act. Each signer of a recall petition shall be a registered voter and qualified by his/her place of residence to vote for the office in question on the date of the issuance of the initial petition papers. ◻

5. A petition demanding that the question of removing a member of the City

Council be submitted to the registered voters shall be signed by registered voters equal in number to at least 45% of the total vote cast for the person receiving the most votes for that office in the last general election. ▫

6. The principal circulator shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the city clerk within 30 days after he/she issues the initial petition papers to the principal circulator. Within 15 days after the filing of the petition, the clerk shall ascertain whether or not the petition is signed by the requisite number of registered voters. No new signatures may be added after the initial filing of the petition papers. No signature may be removed unless the clerk receives an affidavit signed by the person requesting his/her signature be removed before the petitions are filed with the city clerk for signature verification. If the petition is found to be sufficient, the city clerk shall attach to the petition a certificate showing the result of such examination. If the requisite number of signatures has not been gathered, the city clerk shall file the petition in his/her office without prejudice to the filing of a new petition for the same purpose. ▫

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

8. If a majority of the votes cast at a recall election are against the removal of the official named on the ballot or if the election results in a tie, the official shall continue in office for the remainder of his/her term but may be subject to further recall attempts as provided in subsection 10 of this section. If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he/she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the official is deemed removed, the removal shall result in a vacancy in the office, which shall be filled as otherwise provided in this code and state law. If the election results show a margin of votes equal to 1% or less between the removal or retention of the official in question, the secretary of state, election commissioner or county clerk shall order a recount of the votes cast unless the official named on the ballot files a written statement with the city clerk that he/she does not want a recount. If there are vacancies in the offices of a majority or more of the members of the City Council at one time due to the recall of such members, a special election to fill such vacancies shall be conducted as expeditiously as possible by the secretary of state, election commissioner or county clerk. ▫

9. No official who is removed at a recall election or who resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his/her removal or the removal of another member of the City Council during the remainder of his/her term of office. ▫

10. No recall petition shall be filed against an elected official within 12 months after a recall election has failed to remove him/her from office or within six months after the beginning of his/her term of office or within six months prior to the incumbent's filing deadline for the office. ▫

(Ref. Neb. Rev. Stat. §32-1301 through 32-1309)

SECTION 1-612: BALLOTS

The county clerk shall provide printed ballots for every general municipal election, and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the City. ▫

(Ref. Neb. Rev. Stat. §32-1202)

SECTION 1-613: ELECTIONS AT LARGE; SINGLE POLLING PLACE

All elected officials of the City shall be nominated and elected on an at-large basis. There shall be one polling place within the City to be selected and designated as provided by law. ▫

SECTION 1-614: EXIT POLLS

On election day no person shall conduct any exit poll, public opinion poll, or any other interviews seeking to determine voter preferences within 20 feet of the entrance to any polling place or, if inside the polling place or building, within 100 feet of any voting booth. ▫

(Ref. Neb. Rev. Stat. §32-1525)

ARTICLE VII - POLICE DEPARTMENT

SECTION 1-701: POWERS, DUTIES, RESPONSIBILITIES

1. Suitable uniforms and badges shall be furnished to the city police officers by the City. Any member who shall lose or destroy the same shall be required to pay the replacement costs. Any member who shall leave the force shall immediately deliver his/her badge to the chief of police. In addition to uniforms, the City Council may from time to time provide the city police with such equipment and transportation as may be essential in the performance of their official duties. ▫

2. It shall be unlawful for the City Council to retain any city police officer in such position upon his/her conviction of any Class I misdemeanor, Class W misdemeanor, or any felony violation of the United States, the State of Nebraska, or any other comparable offenses of any other jurisdiction. ▫

3. No law enforcement official shall have any interest in any establishment having a liquor license. ▫

4. City police officers, whether regular or special, shall: ▫

A. Be expected to be conversant with and knowledgeable of the city and state laws. ▫

B. Have the power to arrest all offenders against the laws of the State or the City, by day or by night, and keep the said offenders in the city jail or some other place to prevent their escape until trial can be held before the proper official of the State or the City. ▫

C. Have the duty to file such complaints and reports as may be required by the city ordinances and state laws. City police who shall purposely and willfully fail, neglect or refuse to make an arrest or purposely and willfully fail to make a complaint after an arrest is made shall be charged with a misdemeanor, and shall be fined upon conviction of said misdemeanor. ▫

D. Upon making a lawful arrest, search all persons in the presence of some other person whenever possible, and shall carefully keep and produce to the proper judicial official upon the trial everything found upon the person of such prisoners. All personal effects so taken from prisoners aforesaid shall be restored to them upon their release. ▫

E. Have full power and authority to call on any person whenever necessary to assist them in performing public duties; and failure, neglect or refusal to render such assistance shall be deemed a misdemeanor punishable upon conviction by a fine. ▫

SECTION 1-702: ARREST JURISDICTION

1. The police chief or any other city police officer shall have the power and authority to enforce the laws of this state and the City or otherwise perform the functions of that office anywhere within his/her primary jurisdiction. "Primary jurisdiction" shall mean the geographic area within territorial limits of the City. ▫

2. The police chief and any other city police officer who is within this state but beyond the territorial limits of his/her primary jurisdiction shall have the power and authority to enforce the laws of this state or any legal ordinance of the City or otherwise perform the functions of his/her office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within the territorial limits of his/her primary jurisdiction in the following cases: ▫

- A. The police chief or any other city police officer, if in a fresh attempt to apprehend a person suspected of committing a felony, may follow such person into any other jurisdiction in this state and there arrest and detain such person and return him/her to the officer's primary jurisdiction; ▫
- B. The police chief or any other city police officer, if in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, may follow such person anywhere in an area within 25 miles of the boundaries of the officer's primary jurisdiction and there arrest and detain such person and return him/her to the officer's primary jurisdiction;
- C. The police chief or any other city police officer shall have enforcement, arrest and detention authority when responding to a call in which a local, state or federal law enforcement officer is in need of assistance, which shall mean (i) a law enforcement officer whose life is in danger or (ii) who needs assistance in making an arrest and the suspect (a) will not be apprehended unless immediately arrested, (b) may cause injury to himself/herself or others or damage to property unless immediately arrested, or (c) may destroy or conceal evidence of the commission of a crime; and ▫
- D. If the City, under the provisions of the Interlocal Cooperation Act, enters into a contract with any other municipality or county for law enforcement services or joint law enforcement services, law enforcement personnel may have such enforcement authority within the jurisdiction of each of the participating political subdivisions if provided for in the agreement. Unless otherwise provided in the agreement, the City shall provide liability insurance coverage for its own law enforcement personnel as provided in Neb. Rev. Stat. §13-1802. ▫

(Ref. Neb. Rev. Stat. §29-215)

SECTION 1-703: DISCHARGE OR DISCIPLINE OF POLICE OFFICERS

Any city police officer or the police chief may be disciplined or immediately discharged from duty for gross misconduct, neglect of duty or disobedience of lawful orders of the mayor or the City Council as a whole. ▫

SECTION 1-704: APPEAL PROCEDURE FOR DISCHARGED OR DISCIPLINED POLICE OFFICERS

1. In the event of discharge for any of the causes set forth in Section 1-703, the city police chief or police officer shall have the right to appeal his/her discharge or disciplinary action to the City Council. Such appeal shall be made within 30 days of his/her discharge or disciplinary action by filing a written application for a hearing before the Council. Such written application shall be made to the city clerk, who shall immediately notify the mayor of the receipt of such application. ▫

2. Upon notice of the filing of such application and within 20 days of receipt of the same, the mayor shall call a special meeting of the City Council to consider such application. Both the police officer and the individuals causing such disciplinary action or discharge shall have the right to be heard at the hearing and to present evidence to the Council for its consideration. Not later than 30 days following the adjournment of the meeting at which the hearing was held, the City Council shall vote to uphold, reverse or modify the removal or disciplinary action. ▫

3. The failure of the City Council to act within 30 days or the failure of a majority of the Council members to vote to reverse or modify the removal or disciplinary action shall be construed as a vote to uphold the removal or disciplinary action. The decision of the Council shall be based upon its determination that, under the facts and evidence presented at the hearing, the challenged removal or disciplinary action was necessary for the proper management and effective operation of the Police Department in the performance of its duties under the statutes of the State of Nebraska. ▫

4. Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer by the appropriate authority, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty or disobedience of orders. ▫

(Ref. Neb. Rev. Stat. §17-107)

ARTICLE VIII - PLANNING COMMISSION

SECTION 1-801: MEMBERS

The Planning Commission shall consist of nine regular members appointed by the mayor by and with the approval of a majority vote of the City Council. Such regular members shall represent, insofar as is possible, the different professions or occupations in the City. The terms of the regular members shall be six years and shall be staggered. All regular members shall hold office until their successors are appointed. After a public hearing before the City Council, any regular member may be removed by the mayor with the consent of a majority vote of the City Council for inefficiency, neglect of duty or malfeasance in office or other good and sufficient cause. A vacancy occurring otherwise than through the expiration of a term shall be filled for the unexpired portion of the term by the mayor. ▫

SECTION 1-802: OFFICERS; MEETINGS; DUTIES

1. 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 City Council and conditioned upon the faithful performance of their duties. ▫

2. The commission shall elect from its membership a chairperson and a secretary and shall elect other officers as it may determine necessary. The terms of the chairperson and the secretary shall be one year and they shall be eligible for re-election. 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 the same with the city clerk, where they shall be available for public inspection during office hours. ▫

3. 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 that (A) the City Council may require the commission to meet more frequently and (B) 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. ▫

4. 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, and 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. Within 30 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, its recommendations shall be made to the City Council. 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 1-803: 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 shall hold no other city office. The term of the alternate member shall be three years, and he/she shall hold office 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. ▫

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

ARTICLE IX - BOARD OF HEALTH

SECTION 1-901: MEMBERS

The City Council shall appoint a Board of Health which shall consist of four members: the mayor, 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 mayor shall act as chairman. The members of the Board shall serve a one-year term of office, unless reappointed, and shall reorganize at the first meeting in December of each year. ▫

SECTION 1-902: POWERS AND DUTIES

1. The Board of Health shall keep a record of all matters transacted at its meetings and all actions taken by it, which records shall be filed with the city clerk and be part of the public records of the City. A majority of the Board shall constitute a quorum. ▫

2. The Board is authorized and directed to make all necessary rules and regulations relating to matters of sanitation to safeguard the health of the people of the City, providing fines and punishments for the violations thereof. It shall suppress and prevent the occurrence of nuisances and enforce all laws of the State and ordinances of the City relating to matters of sanitation, including the removal of dead animals, and sanitary conditions of the streets, alleys and vacant grounds, private and public stockyards and all other buildings and places where filth, nuisances or offensive matter is kept or is liable to and does accumulate. The Board shall also have control of hospitals, dispensaries, places for treatment of the sick, and matters relating to the same under such restrictions, and provisions as may be provided by ordinance. ▫

(Ref. Neb. Rev. Stat. §17-121)

SECTION 1-903: DEPOSITING OR PERMITTING DEPOSIT OR ACCUMULATION OF ANY SUBSTANCE DETRIMENTAL TO HEALTH OR OFFENSIVE TO SMELL; PENALTY

It shall be unlawful for any person to deposit or permit the deposit or accumulation of any garbage, refuse of any kind or article or thing which is detrimental to health or from which obnoxious or offensive odors arise, on the streets, alleys or public grounds or on any private premises including enclosures in which livestock is kept within the City. Any person who violates this section and shall fail to remove such objectionable substances or otherwise comply with the orders of the Board of Health with reference thereto within 24 hours from the receipt of written notice thereof, upon conviction shall be fined in a sum not to exceed \$500.00 for each offense, and the offensive matter shall be ordered removed by or at the expense of

the defendant. Each 24-hour failure to comply with the orders of the Board of Health shall constitute a separate and distinct offense.

ARTICLE X - TREE BOARD

SECTION 1-1001: CREATION AND ESTABLISHMENT OF TREE BOARD

There is hereby created and established a Tree Board for the City, which shall consist of five members. Such members shall be appointed by the mayor with the approval of the City Council. ▫

SECTION 1-1002: TERMS OF OFFICE

The term of each Tree Board member shall be three years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed by the mayor with the approval of the City Council for the unexpired term. ▫

SECTION 1-1003: COMPENSATION

Members of the Tree Board shall serve without compensation. ▫

SECTION 1-1004: DUTIES AND RESPONSIBILITIES

It shall be the responsibility of the Tree Board to study, investigate, counsel and develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan shall be presented annually to the City Council and, upon its acceptance and approval, shall constitute the official comprehensive city tree plan. The Tree Board, when requested by the Council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work. ▫

SECTION 1-1005: OPERATION

The Tree Board shall choose its own officers, make its own rules and regulations and keep a minute book of its proceedings. A majority of its members shall constitute a quorum for the transaction of business. ▫

SECTION 1-1006: 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 1-1007: REVIEW BY CITY COUNCIL

The City Council shall have the right to review the conduct, acts and decisions of the Tree Board. Any person may appeal any ruling or order of the Tree Board to

the Council. Such appeal must be in writing and must be filed with the city clerk, who shall place the appeal on the agenda for the next regular meeting for consideration. The Council shall decide the appeal, and such decision shall be final. ▫

SECTION 1-1008: DEFINITIONS

"Street trees" are herein defined as trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways with the City. ▫

"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. ▫

"Private community forest" is herein defined as all trees within city boundaries but not owned by the City. ▫

"Public community forest" is herein defined as all street and park trees owned by the City as a total resource. ▫

SECTION 1-1009: STREET TREE SPECIES TO BE PLANTED

The tree list adopted by the Tree Board and published by it constitutes the official street tree species for the City. No species other than those included in this list may be planted as street trees without written permission of the Tree Board. ▫

SECTION 1-1010: 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 1-1011: DISTANCE FROM CURB AND SIDEWALK

The distance which trees may be planted from curbs or curblines 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, two feet; medium trees, three feet; and large trees, four feet. ▫

SECTION 1-1012: 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 curblines. No street tree shall be planted closer than ten feet to any fire hydrant. ▫

SECTION 1-1013: UTILITIES

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

SECTION 1-1014: PUBLIC TREE CARE

The City shall have the right to plant, subject to Section 1-1013 herein, 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 1-1015: 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 1-1016: TREE TOPPING

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 three 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 1-1017: 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 eight feet above the surface of the street or sidewalk. ▫

SECTION 1-1018: DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY

1. All trees that are in a diseased, dying or dead condition are declared to be

a public nuisance and shall be removed by the property owner from the private property on which they are located. For the purpose of carrying out the provisions of this section, the Tree Board shall have the authority to enter on private property to inspect the trees thereon. In the event that the trees are diseased or dead, notice shall be given to the owner of the property by mail or personal service. Such notice shall allow the said owner 60 days to remove the said tree or trees. ▫

2. In the event that the owner is a non-resident, notice shall be made by publication in a newspaper of general circulation or by certified mail if the name and address are known. The person charged with the removal may enter into an agreement with the City that such work be accomplished by the City and the expense shall be declared to be a lien upon such property from the time the same becomes due until paid. If the owner fails, neglects or refuses to enter into such an agreement or to remove the trees, the Tree Board may enter upon the property and proceed to direct the removal of the trees; the cost thereof shall be chargeable to the property owner. If the owner fails to reimburse the City after being properly billed, the costs shall be assessed against the property and certified by the city clerk to the county treasurer to be collected in the manner prescribed by law. ▫

3. In the event the property owner is a non-resident of the county in which the property lies, before levying any special assessment against that property the City shall send to the last known address of the non-resident property owner, by certified mail, return receipt requested, a copy of any notice required by law to be published. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. ▫

SECTION 1-1019: 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 1-1020: 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 \$25.00 annually in advance, provided that no license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. 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. ▫

ARTICLE XI – PARKS AND SWIMMING POOL

SECTION 1-1101: PARKS; OPERATION AND FUNDING

The City owns and operates the city parks and other recreational areas through the City Council, who shall have the authority to adopt rules and regulations for the efficient management of the city parks and other recreational areas of the City. ▫

SECTION 1-1102: 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 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. ▫

(Neb. Rev. Stat. §17-948, through 17-952)

SECTION 1-1103: PARKS; HOURS

All public parks within the corporate limits of the City shall be closed daily to the public between the hours of 11:00 P.M. of one day and 6:00 A.M. of the following day. It shall be unlawful for any person to enter upon, remain in, loiter, wander, stroll, loaf, play in or in any manner utilize the public parks in the City during such hours. ▫

SECTION 1-1104: SWIMMING POOL; OPERATION AND FUNDING

The City owns and manages the city swimming pool through the City Council, which 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)

SECTION 1-1105: SWIMMING POOL; ADMISSION CHARGE

The City Council may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the swimming pool, set reasonable admission charges for use of the city swimming pool. 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 that 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)

SECTION 1-1106: SWIMMING POOL; RENTALS

The City Council shall have the authority to rent the city swimming pool to such organizations and other persons as they may see fit in their discretion. The Council shall prescribe rules and regulations for such rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. Such fees and other costs shall be on file at the office of the city clerk and posted in a conspicuous place at the swimming pool. ▫

(Neb. Rev. Stat. §7-949)

SECTION 1-1107: SWIMMING POOL; RULES AND REGULATIONS

The City Council shall have the power and authority to enact by-laws, rules and regulations for the protection of those using the swimming pool and for the efficient management thereof. Suitable penalties may be provided for the violation of such by-laws, rules and regulations. ▫

(Neb. Rev. Stat. §7-949)

ARTICLE XII - LIBRARY BOARD

SECTION 1-1201: LIBRARY BOARD

1. The City owns and manages the library through the Library Board, which shall consist of five residents of the City appointed by the City Council. Each member of the Board shall serve a four-year term of office and may serve no more than two consecutive terms. No member of the City Council shall serve as a member of the Library Board while serving a term of office on the Council. 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 and conditioned upon the faithful performance of their duties. ▫

2. At the time of the Board's first meeting in June of each year, the members shall organize by selecting from their number a chairman and secretary. No member of the Board may serve as both chairman 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 at any reasonable time. A majority of the board members shall constitute a quorum for the transaction of business. The 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 three members of the Board. ▫

SECTION 1-1202: DUTIES

The Library Board shall have the authority to appoint a librarian and any other employees. It shall be the duty of the Board to have general charge of the city library and to establish appropriate rules and regulations for its management, operation and use. The Board shall have supervisory authority over all employees of the library, including the librarian. All actions of the Board shall be subject to the review and supervision of the City Council. The Board shall be responsible for making such reports and performing such additional duties as the City Council may designate from time to time. ▫

SECTION 1-1203: 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 1-1204: RULES AND REGULATIONS

The Library Board shall establish rules and regulations for the governing of the library for the preservation and efficient management thereof. The Board shall fix and impose penalties and forfeitures for injury to the library grounds, rooms, books or other property, or for failure to return a book. All fees, penalties and forfeitures

may be collected in civil action in the event of failure, neglect or refusal to pay the said assessments. ▫

SECTION 1-1205: COST OF USE

There shall be no cost or charge for use of the library by residents of the City. The librarian may exclude from the use of the library and reading rooms any person who willfully violates or refuses to comply with the rules and regulations established for the government thereof. ▫

SECTION 1-1206: DAMAGED AND LOST BOOKS

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 1-1207: BOOK REMOVAL

It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book from the library without the consent of the librarian or an authorized employee. Any person removing a book from the library without properly checking it out shall be deemed to be guilty of a misdemeanor. ▫

SECTION 1-1208: MONEY COLLECTED

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. ▫

SECTION 1-1209: ANNUAL REPORT

On or before the second Monday in February in each year, the Library Board shall 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 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. ▫

(Ref. Neb. Rev. Stat. §51-213)

ARTICLE XIII – CEMETERY BOARD

(This article amended by Ord. No. 574, 1/13/09)

SECTION 1-1301: MEMBERS

The Cemetery Board shall consist of five members appointed by the mayor with the consent of the City Council from the citizens at large. Every new or reappointed member shall serve a term of three years. Board members shall be removable only for good and sufficient cause by the City Council, after public hearing. The Board shall serve without compensation. ◻

SECTION 1-1302: OFFICERS; MEETINGS

The members of the Cemetery Board may select such officers from among their own number as they may deem necessary. The City Council shall adopt rules under which the Cemetery Board shall conduct its meetings; or in the alternative, the Board may adopt rules under which it shall conduct its meetings, with the approval of the Council. It shall be the duty of the Board to keep full and correct minutes of all meetings and to file the same with the city clerk within ten days of such meeting, where they shall be available for public inspection. ◻

SECTION 1-1303: POWERS, DUTIES

The Cemetery Board shall have entire control and management of any cemeteries belonging to the City. The Board shall establish appropriate rules and regulations for the management, use and operation of municipal cemeteries. The Board shall be responsible for making such reports and performing such other duties as the City Council from time to time may designate. ◻

ARTICLE XIV – BOARD OF ADJUSTMENT

SECTION 1-1401: MEMBERS

1. The mayor shall appoint, with the consent of the City Council, a Board of Adjustment consisting 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. ▫

2. Each member shall be appointed for a term of three years and shall be removable for cause by the mayor upon written charges and after a public hearing. The unexpired term of any member whose term becomes vacant shall be filled by the mayor and approved by the City Council. ▫

3. 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 Commission member to the Board of Adjustment.

4. If the Board does not include a member who resides in the extraterritorial zoning jurisdiction of the city, the first vacancy occurring on the Board of Adjustment after the effective date of this section 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. Neither the mayor nor any member of the City Council shall serve as a member of the Board of Adjustment. ▫

SECTION 1-1402: MEETINGS; QUORUM; OFFICERS

1. Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine. Special meetings may be also held upon the call of any three members of the Board. All meetings of the Board shall be open to the public. A majority of the Board shall constitute a quorum for the purpose of doing business. ▫

2. The Board shall organize at its first meeting each year after the City Council meeting when appointments are regularly made and shall elect from its membership a chairperson and secretary. No member of the Board shall serve in the capacity of both chairperson and secretary. The chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. It shall be the duty of the secretary to keep complete and accurate minutes of the Board's proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and to keep records of the Board's examinations and other official actions, all of which shall be immediately

filed in the office of the Board and shall be public record. The Board shall be responsible for making such reports and performing such other duties as the mayor and City Council may designate. ▫

SECTION 1-1403: DUTIES; COMPENSATION; BOND

The Board shall adopt rules in accordance with the provisions of this Article and Neb. Rev. Stat. §19-901 to 19-914. 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 1-1404: POWERS

The Board shall have only the following powers: ▫

1. To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures, except that the authority to hear and decide appeals shall not apply to decisions made by the City Council or Planning Commission regarding a conditional use or special exception; ▫

2. To hear and decide, in accordance with the provisions of any zoning regulation, 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 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. ▫

SECTION 1-1405: VARIANCES

1. 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. ◻

2. 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. ◻

SECTION 1-1406: APPEALS

Appeals to the Board may be taken by any aggrieved person 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 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, after the notice of appeal shall have been filed with him/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 or by a court of record on application and notice to the officer from whom the appeal is taken and on due cause shown. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof and 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. ◻

(Ref. Neb. Rev. Stat. §19-909)

SECTION 1-1407: DECISIONS ON APPEALS

1. In exercising the powers granted in this Article, 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. ◻

2. Appeals from a decision by the Board may be taken as provided in Neb. Rev. Stat. §19-912. ◻

ARTICLE XV – COMMUNITY REDEVELOPMENT AGENCY

(Article amended by Ord. No. 570, 11/11/08)

SECTION 1-1501: CREATION OF AGENCY; MEMBERS

There is hereby established, pursuant to Neb. Rev. Stat. §18-2101.01, a community development agency for the City of Valley. The mayor and City Council are hereby designated to be members of the Community Development Agency for the City. ▫

SECTION 1-1502: OFFICERS

The mayor shall be the chairperson of the Community Development Agency; the president of the City Council shall be the vice-chairperson; and the city clerk shall be the secretary.

SECTION 1-1503: POWERS

The Community Development Agency shall have the power and authority to exercise those powers and authority granted to a community redevelopment authority under Neb. Rev. Stat. §18-2101 to 18-2144. The Community Development Agency shall also have the power and authority to do all community development activities and to do all things necessary to cooperate with the federal government in all matters relating to community development program activities as a grantee or as an agent or otherwise under the provisions of the Federal Housing and Community Development Act of 1974, as amended, through the Housing and Community Development Amendments of 1981. The Community Development Agency may levy taxes for the exercise of such jurisdiction and authority and may issue general obligation bonds, general obligation notes, revenue bonds, and revenue notes including those general obligation and revenue refunding bonds and notes for the purposes set forth in such sections and under the powers granted to any community redevelopment authority described therein.

SECTION 1-1504: TRANSFER OF RIGHTS, PROPERTY AND OBLIGATIONS

All of the rights and property, both real and personal, of the existing Valley Community Redevelopment Authority and all obligations including leases, bonds, redevelopment contracts, agreements and other evidence of debt of said Authority are hereby transferred to and assumed by the Community Development Agency of Valley which is created pursuant to this ordinance.

SECTION 1-1505: AFFIRMATION OF PRIOR OBLIGATIONS

All obligations including leases, bonds, redevelopment contracts, agreements and other evidence of debt previously issued in the name of the Community Development Agency of the City of Valley are hereby affirmed as though issued after the adoption of this ordinance.

ARTICLE XVI – FAIR HOUSING BOARD

SECTION 1-1601: PURPOSE

The City Council hereby declares it to be the public policy of this city to eliminate discrimination and safeguard the right of any person to sell, purchase, lease, rent, finance or obtain funding or real property without regard to race, color, sex, religion, national origin or ancestry. ▫

SECTION 1-1602: DEFINITIONS

“Person” shall mean one or more individuals, partnerships or other organizations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers. ▫

“Unlawful discriminatory housing practice” shall mean any discrimination or segregation against any person or group of persons because of race, color, sex, religion, national origin or ancestry, and shall include only those unlawful practices and acts as set forth herein. ▫

“Housing accommodations” shall mean any building or portion thereof, whether such building or portion is constructed to be used or is intended for use as the residence or sleeping place of one or more persons. “Housing accommodations” shall not mean or include: (1) the rental of a dwelling or portion thereof containing accommodations for no more than five families, one of which is occupied by the owner or his/her family at the time of the rental; (2) the rental of rooms in a one-family dwelling to another person or persons by the owner or occupant of such accommodation in which he/she or members of his/her family reside. ▫

“Owner” shall mean and include the owner, lessee, sub-lessee, assignee, manager, agent or other person, firm or corporation having the right to sell, rent or lease any housing accommodations or real property within the corporate limits of the City. ▫

ARTICLE XVII – PENAL PROVISION

SECTION 1-1701: VIOLATION; PENALTY

Anyone violating any of the terms and conditions of the foregoing Chapter and Articles shall be deemed guilty of a misdemeanor and shall be fined in a sum not more than \$500.00 for each offense. Each day's maintenance of the same shall constitute a separate offense. ▫