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CHAPTER 2 – COMMISSIONS AND BOARDS

Article 1 – Board of Health

SECTION 2-101: MEMBERS; TERMS

The Village Board shall appoint a Board of Health consisting of three members, including the chairman of the Village Board, who shall serve as chairman, 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 medical advisor. If the Village Board has appointed a police chief, he may be appointed to the Board of Health and serve as secretary and quarantine officer. The members of the board shall serve one-year terms of office, unless removed by the chairman of the Village Board with the advice and consent of the trustees. (Neb. Rev. Stat. §17-208)

SECTION 2-102: OFFICERS; MEETINGS

The members of the Board of Health shall reorganize at the first meeting in December each year. No member of the board shall hold more than one board position. The secretary shall keep full and correct minutes and records of all meetings and file the same with the village clerk, where they shall be available for public inspection during office hours. A majority of the board shall constitute a quorum for the purpose of doing business. The board shall meet at such times as the Village Board may designate. Special meetings may be held upon the call of the chairman or any two members of the Board of Health.

SECTION 2-103: 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 village. 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 laws of the State of Nebraska and ordinances of the village 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 Village Board may direct. The board shall be responsible for making such reports, prescribing such penalties, and performing such other duties as the Village Board may designate from time to time. All actions of the Board of Health shall be subject to the review and supervision of the Village Board. (Neb. Rev. Stat. §17-208)

SECTION 2-104: ENFORCEMENT OFFICIAL

The police chief, if appointed as the quarantine officer, shall be the chief health officer of the village. It shall then be his duty to notify the Village Board and the Board

of Health of health nuisances within the village and its zoning jurisdiction. (Neb. Rev. Stat. §17-208)

Article 2 – Parks

SECTION 2-201: OPERATION AND FUNDING

A. The village owns and operates the village parks and other recreational areas. The Village Board, for the purpose of defraying the cost of the care, management, and maintenance of the village parks, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the park fund and shall remain in the custody of the village treasurer.

B. The Village Board shall have the authority to adopt rules and regulations for the efficient management of the village parks and other recreational areas of the village.

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

Article 3 – Community Hall

SECTION 2-301: OWNERSHIP

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

SECTION 2-302: RENTALS

The village may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the community hall, make a reasonable rental charge for its use by any person or organization. Rental rates may be structured for classes of persons and organizations in a reasonable manner; provided, nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons and organizations for rental purposes. (Neb. Rev. Stat. §17-953)

Article 4 – Cemetery

(Neb. Rev. Stat. §§12-301 through 12-403)

SECTION 2-401: OPERATION AND FUNDING

A. The village owns and manages the village cemetery. The Village Board, for the purpose of defraying the cost of the care, management, maintenance, and beautification of the cemetery, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the village that is subject to taxation. The revenue from the said tax shall be known as the cemetery fund and shall include all gifts, grants, deeds of conveyance, bequests, money, stocks, bonds, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the cemetery. The cemetery fund shall at all times be in the custody of the village treasurer.

B. The Village Board shall have the power and authority to hire and supervise such employees as it may deem necessary and to pass such rules and regulations for the operation of the cemetery as may be proper for its efficient operation.

SECTION 2-402: SEXTON

The Village Board shall have the authority to appoint a sexton, who shall perform such duties and make such reports as the board shall direct. It shall be the duty of the sexton to locate and direct the applicant to the correct lot and to dig and excavate or cause the same to be dug and excavated in compliance with the rules and regulations of the board. (Neb. Rev. Stat. §12-403)

SECTION 2-403: INTERMENTS

No burials shall be permitted in the cemetery except those in metal or concrete burial vaults. (Ord. No. 87-3, 5/5/87)

SECTION 2-404: CONVEYANCE OF LOTS

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

SECTION 2-405: FORFEITURE OF LOTS

If, for three consecutive years, all charges and liens are not paid by the holders of the lot certificates, the said certificates shall be declared forfeited and subject to resale. All certificates sold shall contain a forfeiture clause to the effect that if no interment is

made on the said lot and all liens paid, the certificate and the rights under the same may, at the option of the Village Board, be declared null and void and the lot shall be subject to resale. (Neb. Rev. Stat. §17-938)

SECTION 2-406: LOT TRANSFERS

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

SECTION 2-407: RECLAMATION

When any lot has been transferred by warranty deed or by a deed conveying a fee simple title but there has been no burial in any such lot or subdivision thereof and no payment of annual assessments for a period of 50 years, the Village Board may reclaim the unused portion of such lot or subdivision after notifying the record owner or his or her heirs or assigns, if known, by certified mail and publishing notice of its intention to do so. Such notice shall be published once each week for four weeks in a newspaper of general circulation throughout the county in which the cemetery is located, shall describe the lot or subdivision proposed to be reclaimed, and shall be addressed to the person in whose name such portion stands of record or, if there is no owner of record, to all persons claiming any interest in such lot or subdivision. If no person appears to claim such lot or subdivision and pay all delinquent assessments with interest within 15 days after the last date of such publication, the board may by resolution reclaim such lot or subdivision. Such reclamation shall be complete upon a filing of a verified copy of such resolution, together with proof of publication, in the office of the register of deeds. (Ord. No. 87-7, 6/2/87)

SECTION 2-408: DESTRUCTION OF PROPERTY

Any person who shall willfully destroy, mutilate, deface, injure, or remove any tomb, monument, or gravestone placed in the cemetery or any fence, railing, or other work for the protection or ornamentation of the cemetery or who shall willfully destroy, cut, break or injure any tree, shrub, or plant shall be deemed to be guilty of an offense. (Neb. Rev. Stat. §17-946)

SECTION 2-409: PERPETUAL FUNDS; PURPOSES

A. The Village Board shall set aside the proceeds of the sale of lots as a perpetual fund to be invested as provided by ordinance. The income from the fund may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery. The principal of the perpetual fund may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as long as no more than 20% of the principal is so used in any fiscal year and no more than 40% of the principal is so used in any period of ten consecutive fiscal years. The principal of the perpetual fund may also be used for the purchase and development of additional land to be used for cemetery purposes as long

as no more than 25% of the principal is so used in any fiscal year and no more than 35% of the principal is so used in any period of ten consecutive fiscal years.

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

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

(Neb. Rev. Stat. §12-402)

Article 5 – Trees

(Ord. No. 91-9, 11/6/91)

SECTION 2-501: DEFINITIONS

"Community forest manager" is the official representative of the village and as such is responsible for administration of the community forestry program.

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

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

SECTION 2-502: SPECIES TO BE PLANTED

The village shall maintain a list of recommended trees for planting in public areas. Said list shall be available to residents of the village upon request to aid in the selection of trees for private properties. The list of recommended trees shall be updated periodically to reflect new developments or species that will affect the population of the community forest.

SECTION 2-503: SPACING AND DISTANCES

Street trees may be planted no closer together than 30 feet, except in special plantings approved by the community forest manager.

SECTION 2-504: PLANTING DISTANCES AND CLEARANCES

A. Street trees may be planted in the tree lawn where there is more than 6 feet between the edge of the sidewalk and the curb of the street. Street trees shall be planted no closer than 3 feet from a sidewalk or a street.

B. No street tree shall be planted closer than 35 feet from any street corner, measured from the point of the nearest intersection of curbs or curb lines.

C. No street tree shall be planted closer than 10 feet from any fireplug.

D. Special permission must be obtained from the community forest manager when planting street trees within 10 feet of any point on a line on the ground immediately below any overhead utility wire or within 5 lateral feet of any underground water line, sewer line, transmission line, or other utility.

SECTION 2-505: PUBLIC TREE CARE

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

B. The village 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 sewer, electric power, gas, or water lines or other public improvements or is seriously affected with any injurious insect or disease.

C. The abutting property owners shall have the right to perform normal tree care on all street trees.

SECTION 2-506: COMPENSATORY PAYMENTS

No person shall remove any public tree without replacing such tree with a tree or trees of equivalent dollar value in the vicinity of the removed tree. The value of trees shall be determined by the community forest manager in accordance with regulations considering the species, location, size, and condition of trees adopted by the said manager. If no suitable location exists in the vicinity of the tree removed or if the replacement tree is of lesser value, the person causing the tree to be removed shall make a compensatory payment to the village equal to the difference in value between the tree removed and any replacement tree. Such compensatory payment shall be paid into a fund established by the village treasurer and used solely for the purpose of enhancing the community forest.

SECTION 2-507: TOPPING

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

SECTION 2-508: CLEARANCE OVER STREETS AND WALKWAYS

Clearance over streets and walkways shall be the responsibility of the abutting property owner. A clearance of 8 feet must be maintained over walkways and a clearance of 14 feet must be maintained over streets. Property owners are responsible for trees on their own property as well as trees on the public way that abuts their property.

SECTION 2-509: DEAD, DYING, OR DISEASED

A. It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead, dying, or diseased trees within the right of way of streets or on private property within the corporate limits of the village.

B. For the purpose of carrying out the provisions of this section, any village official shall have the authority to enter upon private property to inspect the trees thereon.

C. Notice to abate and remove such nuisances and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. Within 30 days after the receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the village may have such work done and may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied or assessed.

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

(Neb. Rev. Stat. §§18-1720, 28-1321)

SECTION 2-510: REMOVAL OF STUMPS

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

SECTION 2-511: INTERFERENCE

It shall be unlawful for any person to prevent, delay or interfere with the planting, cultivating, mulching, pruning, spraying, or removing of any trees within the community forest, as authorized in this article.

SECTION 2-512: ACCESS TO PRIVATE PROPERTY

It shall be unlawful for any person to prevent, delay, or interfere with access to private property by the village or its representative in the legal performance of any section of this ordinance.

Article 6 – Citizen Advisory Review Committee

(Ord. No. 14-11-10, 11/10/14)

SECTION 2-601: ECONOMIC DEVELOPMENT PROGRAM; IMPLEMENTATION

The Economic Development Program of the village (“the program” or “the plan”), approved by the electors of the village at the November 4, 2014 election, is hereby established and ordered implemented in accordance with the stated terms of the plan, the Local Option Municipal Economic Development Act, and other applicable state laws.

SECTION 2-602: COMMITTEE MEMBERS

In accordance with the plan, the chairperson, subject to approval by the Village Board, shall appoint no fewer than five nor more than ten registered voters of the village to serve as members of the Citizen Advisory Review Committee. They shall be responsible for reviewing the functioning and progress of the Economic Development Program and advising the Village Board with regard to the program.

A. Terms of the Citizen Advisory Committee shall be four years

B. The chairperson shall designate a village official or employee to serve as an ex-officio member of the committee with responsibility for assisting the committee and providing it with necessary information and advice on the Economic Development Program.

C. At least one individual on the committee must have expertise or experience in the field of business, finance, or accounting.

D. No member of the committee shall be an elected or appointed village official, an employee of the village, a participant in a decision-making position regarding expenditures of program funds, or an official or employee of any qualifying business receiving financial assistance under the Economic Development Program or of any financial institution participating directly in the Economic Development Program.

E. The committee will meet regularly as required to review the program and will report to the Village Board at least once in every quarter period on its findings.

SECTION 2-603: ADMINISTRATION OF THE PLAN

A. In accordance with the plan, the Village Board will contract with an outside agency to serve as the program administrator for the Economic Development Program. The program administrator will:

1. Be responsible for the day-to-day activities of administering the pro-

gram;

2. Develop and make available an application form for requesting financial assistance from the Economic Development Program;
3. Assist applicants and conduct active recruiting for potential applicants to the extent possible;
4. Review applications on a timely basis;
5. Verify business information provided by eligible businesses to the extent applicable and possible;
6. Negotiate the terms and conditions of the assistance to be provided;
7. Make recommendations to the Village Board on program expenditures;
8. Monitor participating businesses to ensure they are meeting or have met funding requirements as necessary (to include verifying employment figures of participating businesses' various Nebraska business locations to ensure they remain eligible in Callaway's program by keeping employment levels in all Nebraska communities at levels required by law);
9. Be responsible for the procedures to insure that all applicable laws, regulations, and requirements are met by the municipality;
10. Provide for the review of all contracts, official documents land transactions, and other official actions related to the economic development program;
11. Provide someone to attend meetings of the Citizen Advisory Review Committee who will provide the committee with necessary information either directly or through the village's *ex officio* member of the committee;
12. Be responsible for procedures to insure that the village and the qualifying businesses that receive financial assistance meet all applicable laws, regulations, and requirements. These procedures will be subject to review and approval by the Village Board.

B. The program administrator may use an attorney to review all contracts, official documents, land transactions, and other official actions related to the Economic Development Program, as well as applicable laws annually, to ensure compliance with applicable laws, regulations, and requirements. If there is a conflict between this plan and the ordinance that governs this plan and Nebraska statutes (both current

and future), state statutes will prevail.

SECTION 2-604: CONFIDENTIALITY

Information collected in the course of receiving or processing applications for assistance under the Economic Development Program shall be confidential as provided in the Local Option Municipal Economic Development Act. Such information shall be made available only to the Village Board and/or its designated Application Review Committee for the limited purpose of determining eligibility for assistance under the plan. Unauthorized disclosure of confidential business information shall be a Class III misdemeanor. All persons involved in the program must sign statements of confidentiality regarding all personal and private submissions by qualified businesses.

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.