

CHAPTER 34: COMMISSIONS, BOARDS AND AUTHORITIES

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GENERAL PROVISIONS

§ 34.01 STANDING COMMITTEES; GENERAL PROVISIONS.

At the organizational meeting of the City Council, the Mayor shall appoint members of standing committees as the Council may create by ordinance or resolution. The membership of standing

committees may be changed at any time by the Mayor. The Mayor shall be an ex officio member of each standing committee. The members of the standing committees shall serve a term of office of one year, unless reappointed.

(1999 Code, § 2-101)

COMMISSIONS, BOARDS AND AUTHORITIES

§ 34.15 LIBRARY BOARD.

(A) When the City Council has decided by ordinance to establish and maintain a public library and reading room under Neb. RS 51-201 to 51-219, and except as otherwise provided by the Council pursuant to Neb. RS 51-202, the Library Board shall have five appointed members who shall be residents of the city and who shall serve terms of four years. The Board members shall be appointed by a majority vote of the members of the City Council. Neither the Mayor nor any member of the City Council shall be a member of the Library Board. The terms of members serving on the effective date of a change in the number of members shall not be shortened, and any successors to those members shall be appointed as the terms of those members expire. In cases of vacancies by resignation, removal or otherwise, the City Council shall fill the vacancy for the unexpired term. No member shall receive any pay or compensation for any services rendered as a member of the Library Board.
(Neb. RS 51-202)

(B) (1) The members of the Library Board shall immediately after their appointment meet and organize by electing from their number a President, a Secretary and other officers as may be necessary. A majority of the members of the Library Board shall constitute a quorum for the transaction of business.
(Neb. RS 51-204)

(2) No member of the Board shall serve in the capacity of both the President and Secretary of the Board. 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.

(3) The Board shall meet at those times as the Board may designate. Special meetings may be held upon the call of the President or a majority of the members of the Board.
(1999 Code, § 2-201) (Ord. 02-588, passed 12-4-2002)

Cross-reference:

Library provisions, see Ch. 95

§ 34.16 PLANNING COMMISSION.

(A) (1) If the City Council adopts zoning or other regulations pursuant to Neb. RS 19-901 et seq., the Planning Commission shall consist of five regular members, as specified by the City Council by

ordinance, 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 members elected to 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 are 500 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 the area. If it is determined by the City Council that 500 residents reside in the area subject to extraterritorial zoning or subdivision regulation, and no 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. 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. 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. RS 19-908. The term of each regular member shall be three years, except that one-third or fewer of the regular members of the first Commission to be so appointed shall serve for terms of one year, one-third or fewer for terms of two years, and the remaining members for terms of three years. All regular members shall hold office until their successors are appointed. Any member may, after a public hearing before the Council, be removed by the Mayor with the consent of a majority vote of the members elected to the Council for inefficiency, neglect of duty or malfeasance in office or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by the Mayor.

(2) The Mayor may, with the approval of a majority vote of the elected members of the Council, appoint one alternate member to the Planning Commission. The alternate member 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 vote of the elected members of the Council. The alternate member may attend any meeting and may serve as a voting and participating member of the Commission at any time when less than the full number of regular Commission members is present and capable of voting.
(Neb. RS 19-926)

(B) The Commission shall elect its Chairperson from its members and create and fill those other of its offices as it may determine. The term of the Chairperson shall be one year, and he or she shall be eligible for reelection. 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 Chairperson of the Commission may call for a meeting when necessary to deal with business pending before the Commission. 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.
(Neb. RS 19-927)

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(C) No member of the Commission shall serve in the capacity of both the Chairperson and Secretary of the Commission. The Secretary shall keep the full and correct minutes and records of all meetings and file them with the City Clerk where they shall be available for public inspection during office hours.

(D) The City Council may provide the funds, equipment and accommodations necessary for the work of the Commission, but the expenditures of the Commission, 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 those amounts.

(Neb. RS 19-928)

(E) (1) (a) Except as provided in Neb. RS 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 the city and including a comprehensive development plan as defined by Neb. RS 19-903;

2. Prepare and adopt those implemental means as a capital improvement program, subdivision regulations, building codes and a zoning ordinance in cooperation with other interested city 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 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.

(b) 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; provided that the Planning Commission shall make its recommendation so that it is received by the City Council within 60 days after the Commission begins consideration of a matter or within the other number of days as the City Council has set by ordinance.

(c) A recommendation from the Planning 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 the subdivision complies with the ordinance requirements concerning minimum areas and dimensions of the lots and blocks, if the City Council has designated, by ordinance, an agent pursuant to Neb. RS 19-916.

(2) (a) 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.

(b) 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 the studies or work, and at its public hearings, summon witnesses, administer oaths and compel the giving of testimony.

(3) (a) 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 those powers and has approved the standards and procedures adopted by the Commission for equitably and judiciously granting those 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.

(b) 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 the power if it has formally adopted standards and procedures for granting those conditional uses or special exceptions in a manner that is equitable and will promote the public interest.

(c) An appeal of a decision by the Commission or Council regarding a conditional use or special exception shall be made to the District Court.

(Neb. RS 19-929) (1999 Code, § 2-202)

Statutory reference:

Other provisions on planning commissions, see Neb. RS 19-924 through 19-933

§ 34.17 BOARD OF ADJUSTMENT.

(A) If the City Council adopts zoning or other regulations pursuant to Neb. RS 19-901 et seq., except as provided in division (B) below, the Council shall provide for the appointment of a Board of Adjustment. Any actions taken by the Board of Adjustment shall not exceed the powers granted by division (F) below.

(Neb. RS 19-907)

(B) If the county has adopted a comprehensive development plan, as defined by Neb. RS 23-114.02, and is enforcing zoning regulations based upon a plan, the Zoning Board of Adjustment of the county shall, upon request of the City Council, serve as the Zoning Board of Adjustment for the city. If the city

is located in more than one county, it shall be served by request or otherwise only by the County Zoning Board of Adjustment of the county in which the greatest area of the city is located, and the jurisdiction of the County Zoning Board of Adjustment shall include all portions of the city and its area of extraterritorial control, regardless of county lines.
(Neb. RS 19-912.01)

(C) (1) The Board of Adjustment shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by the 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 of Adjustment. 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 a time as more than 200 persons reside within the area if the Board does not already include such a person. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside of the corporate boundaries of the city but within its extraterritorial zoning jurisdiction.

(2) The Board of Adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to Neb. RS 19-901 to 19-914. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at those other times as the Board may determine. The Chairperson, or in his or her absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating the 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.
(Neb. RS 19-908)

(D) A number of members equal to a majority of the number of regular members appointed to the Board of Adjustment shall constitute a quorum for the transaction of any business. All members of an appointed Board of Adjustment shall serve without compensation and shall hold no other city office except for the member of the Planning Commission appointed to serve on the Board of Adjustment. No member of the Board of Adjustment shall serve in the capacity of both Chairperson and Secretary of the Board. The Secretary shall keep the full and correct minutes and records of all meetings and file them with the City Clerk where they shall be available for public inspection during office hours.

(E) 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. The 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 that 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.

(Neb. RS 19-909)

(F) (1) The Board of Adjustment shall, subject to appropriate conditions and safeguards as may be established by the City Council, have only the following powers:

(a) 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 under Neb. RS 19-929(3);

(b) To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map; and

(c) 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 the piece of property, the strict application of any enacted regulation under Neb. RS 19-901 and 19-903 to 19-904.01 and divisions (C) above and (F) below would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution.

(2) (a) No variance shall be authorized by the Board unless it finds that:

1. The strict application of the zoning regulation would produce undue hardship;
2. The hardship is not shared generally by other properties in the same zoning district and the same vicinity;
3. The authorization of the variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
4. The granting of the variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

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(b) 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.

(3) In exercising the powers granted in this division (F), the Board may, in conformity with Neb. RS 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 the 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 administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any regulation or to effect any variation in the regulation.
(Neb. RS 19-910)

(G) Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the city, may present to the District Court a petition duly verified, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The 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 the petition a summons shall be issued and be 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 the 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. 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 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 the judgment of the District Court shall be prosecuted in accordance with the general laws of the state regulating appeals in actions at law.
(Neb. RS 19-912) (1999 Code, § 2-203) (Ord. 02-608, passed 12-4-2002; Ord. 05-679, passed 3-1-2005)

§ 34.18 BOARD OF HEALTH.

(A) (1) The Board of Health shall consist of four members: the Mayor, who shall be Chairperson; the President of the City Council; and two other members. One member shall be a physician or health care provider, if one can be found who is willing to serve. The physician or health care provider, if

appointed, shall be the Board's medical advisor. If the Mayor has appointed a Chief of Police, the Chief of Police shall serve on the Board as Secretary and quarantine officer.

(2) A majority of the Board of Health shall constitute a quorum and shall enact rules and regulations, which shall have the full force and effect of law, to safeguard the health of the people of the city, may enforce them, and may provide fines and punishments for the violation thereof. The Board shall have power to and shall make all needful rules and regulations relating to matters of sanitation of the city, including the removal of dead animals, the sanitary condition of the streets, alleys, vacant grounds, stockyards, cattle and hog pens, wells, cisterns, privies, waterclosets, cesspools, stables and all buildings and places not specified where filth, nuisances or offensive matter is kept or is liable to or does accumulate. It may regulate, suppress and prevent the occurrence of nuisances and enforce all laws of the state and ordinances of the city relating to nuisances or to matters of sanitation of the city. The Board shall also have control of hospitals, dispensaries, places for treatment of sick and matters relating to the same under the restrictions and provisions as may be provided by ordinance of the city. (Neb. RS 17-121)

(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.

(C) The Board of Health shall reorganize at its meeting after appointments are regularly considered by the City Council and, if necessary, select a member to serve as Secretary. No member of the Board of Health shall hold more than one Board of Health position. 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.

(D) The Board shall meet at those times as the City Council may designate. Special meetings may be held upon the call of the Chairperson or any two members of the Board of Health.

(E) The members of the Board of Health shall serve without compensation. The Board of Health shall be funded by the City Council from time to time out of the General Fund.

(F) The Board of Health shall regularly inspect the premises and businesses as the City Council may direct.

(G) All members of the Board of Health shall be responsible for making those reports and performing those other duties as the City Council may, from time to time, designate. (1999 Code, § 2-204)

Cross-reference:

Health and sanitation regulations, see Ch. 90

§ 34.19 HOSPITAL AND NURSING HOME BOARD.

The governing body shall appoint the Hospital and Nursing Home Board. The Board shall consist of four members who shall be residents of the municipality and the Mayor. The members of the Board

shall serve a three-year term of office unless reappointed and one member shall be appointed or reappointed each year. The Board shall serve without compensation and may be required, in the discretion of the governing body, to give a bond in a sum set by resolution of the governing body, and conditioned upon the faithful performance of their duties. At the time of the Board's first meeting in January of each year, the Board shall organize by selecting from among its membership a 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 Municipal 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 those times as the governing body may designate. Special meetings may be held upon the call of the Chairperson, or any three members of the Board. It shall be the duty of the Board to have general charge of the Municipal Hospital and Nursing Home and establish appropriate rules and regulations for the management, operation and use of the same. All actions of the Board shall be subject to the review and supervision of the governing body. The Board shall be responsible for making those reports and performing those additional duties as the governing body may from time to time designate. No member of the governing body shall be prohibited to serve as a member of the Hospital and Nursing Home Board while serving a term of office as a member of the governing body. No member of the Hospital and Nursing Home Board shall serve in the capacity of both the Chairperson and Secretary of the Board.

(1999 Code, § 2-205) (Ord. 01-562, passed 4-4-2001)

§ 34.20 BOARD OF CEMETERY TRUSTEES.

The governing body shall appoint the Board of Cemetery Trustees which shall consist of six members who are residents of the municipality and who shall serve without compensation for a term of three years. Two members shall be appointed each year and may be required in the discretion of the governing body, to give a bond in a sum set by resolution of the governing body, and conditioned upon the faithful performance of their duties. At the first meeting in January of each year, the Board shall organize by selecting from its membership a Chairperson and Secretary. The Secretary shall keep the full and correct minutes and records of all meetings and file the same with the Municipal 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 purpose of doing business. The Board shall meet at those times as the governing body may designate. Special meetings may be held upon the call of the Chairperson or any three members of the Board. The Board shall have the general care, management and supervision of the municipal cemetery with the power and authority to limit and regulate the number of cemetery lots that may be owned by the same person; to prescribe rules for enclosing, adorning and erecting monuments and tombstones on cemetery lots; and to prohibit any diverse or improper use thereof; provided, no religious tests shall be made as to the ownership of lots, the burial therein, and the ornamentation of graves. The Board shall pass rules and regulations for the proper use of the cemetery and prescribe penalties and fines for violations thereof. The Board shall use all revenue received from the sale of lots, gifts or by devise for the care, management and administration of the cemetery. All actions of the Board shall be subject to the review and supervision of the governing body and it shall be responsible for making those reports and performing those additional duties as the governing body may designate. No member of the governing body shall serve as a member of the Board while serving a term of office as

a member of the governing body. No member of the Board of Cemetery Trustees shall hold more than one Board office.

(1999 Code, § 2-206)

§ 34.21 TREE BOARD.

(A) There is hereby created and established, a City Tree Board for the city, which shall consist of five members who shall be citizens and residents of the city, who shall be appointed by the Mayor with the approval of the Council.

(B) The term of the five persons to be appointed by the Mayor shall be three years, except that the term of two of the members appointed to the first Board, shall be for only one year and the term of two members of the first Board shall be for two years. In the event that a vacancy shall occur for the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

(C) Members of the Board shall serve without compensation and shall not be entitled to receive remuneration, gifts or compensation from any person whomsoever as a result of the performance of any of his or her duties on the Tree Board.

(D) It shall be the responsibility of the Board to study and investigate the existing recommended street standards in the City Comprehensive Plan, wherein street trees and the recommended trees are discussed and certain regulations are established, and which standards are hereby adopted as the preliminary and existing regulations until the time that the Tree Board makes contrary, additional or new recommendations in a written plan, for the planting, care, replanting, preservation, pruning, removal or disposition of trees and shrubs in parks, along the streets, and in other public areas. The Tree Board shall have the responsibility of counseling, developing and updating annually or so often as they shall feel necessary, and administering a written plan for the planting, replanting, care, preservation, pruning, removal or disposition of trees and shrubs in parks, along the streets and in other public areas. The plan will be presented to the City Council as often as changes are necessary, and upon their acceptance and approval, shall constitute the official comprehensive city tree plan for the city. The Board, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter or question, coming within the scope of its work.

(E) The 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.

(1999 Code, § 2-214)

§ 34.22 COMMUNITY REDEVELOPMENT AUTHORITY.

(A) The city hereby creates the Community Redevelopment Authority, with all rights and obligations provided for Community Redevelopment Authorities in the Nebraska Community Redevelopment Law, Neb. RS 18-2101 et seq. (the "Act"). The Authority shall consist of five persons,

all residents of the city who shall be appointed by the Mayor with the approval of the governing body of the city.

(B) The Authority hereby created shall function under the direction of its Chair and its authorized members and shall exercise the powers herein described or referred to and as determined by resolution or ordinance duly adopted from time to time by the Authority.

(C) The Authority shall exercise all rights and powers granted to community development agencies pursuant to the Act.
(Ord. 06-695, passed 3-6-2007)

HOUSING AUTHORITY

§ 34.35 HOUSING AUTHORITY BOARD.

(A) The governing body shall appoint five persons who shall constitute the Housing Authority and those persons shall be called the Commissioners. One Commissioner shall be appointed each year. Each Commissioner shall serve a five-year term of office or until his or her successor is duly appointed; provided, that all vacancies shall be filled for the unexpired terms. The governing body may appoint one of its members to serve as one of the five members of the Housing Authority for those term as the governing body may determine. No person shall serve as a Commissioner unless he or she resides within the area of operation of that Housing Authority. A certificate of the appointment or reappointment of any Commissioner shall be filed with the Municipal Clerk and the certificate shall be conclusive evidence of the proper appointment of the Commissioner. A Commissioner shall receive no compensation for his or her services, but he or she shall be entitled to the necessary expenses, including travel expenses, incurred in discharge of his or her duties.

(B) A majority of Commissioners shall constitute a quorum of the Authority for the purpose of conducting its business, exercising its powers, and for all other purposes. Action may be taken by the Authority upon the vote of the majority of the Commissioners present unless in any case the bylaws of the Authority shall require a larger number. The Commissioners shall elect a Chairperson and Vice-Chairperson from among the Commissioners and shall have the power to employ an executive director who shall serve as ex officio Secretary of the Authority. The Authority may also employ legal counsel, or it may call upon the chief law officer of the municipality, for those services as it may require. It may employ technical experts and other officers, agents and employees as it may require and shall determine their qualifications, duties, compensations and terms of office. The Authority may delegate those other powers and duties to its agents or employees as it may deem proper.

(C) During his or her tenure, and for one year thereafter, no Commissioner, officer or employee of the Municipal Housing Authority shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any housing project. If any Commissioner, officer or employee

involuntarily acquires any interest or voluntarily or involuntarily acquired any interest prior to appointment or employment as Commissioner, officer or employee, he or she shall immediately disclose his or her interest in writing to the Authority, and the disclosure shall be entered upon the minutes of the Authority, and he or she shall not participate in any action by the Authority relating to the property or contract in which he or she has any interest; provided, that nothing herein shall apply to the acquisition of any interest in notes or bonds of the Authority issued in connection with any housing project, or to the execution of agreements by banking institutions for deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services, the rates for which are fixed or controlled by a governmental agency.

(D) The Mayor may remove a Commissioner for neglect of duty or misconduct in office in the manner prescribed hereinafter. The Mayor shall send a notice of removal to that Commissioner which notice shall contain a statement containing the charges against him or her. Unless within ten days from the receipt of the notice, the Commissioner files with the Clerk a request for a hearing before the governing body, the Commissioner shall be deemed as removed from office. If a request for a hearing is filed with the Clerk, the governing body of the municipality shall hold a hearing at which the Commissioner shall have the right to appear in person or by counsel and the governing body shall determine whether the removal shall be disapproved or upheld. If the removal is disapproved, the Commissioner shall continue to hold his or her position.

(E) The Housing Authority shall keep an accurate account of all its activities and of all its receipts and disbursements and shall make a report to the governing body on all information.
(1999 Code, § 2-207)

Statutory reference:

Local Housing Agencies; continuance of Housing Authorities, see Neb. RS 71-1572 through 71-1580

§ 34.36 CONTINUED EXISTENCE AS HOUSING AGENCY.

(A) The local housing authority established under prior state law and in existence on January 1, 2000, shall have continued existence as a housing agency under the Nebraska Housing Agency Act.

(B) (1) The local housing agency shall conduct its operations consistent with the Nebraska Housing Agency Act.

(2) All property, rights in land, buildings, records and equipment and any funds, money, revenue, receipts or assets of the authority belong to the agency as successor. All obligations, debts, commitments and liabilities of the authority are obligations, debts, commitments and liabilities of the successor agency.

(C) Any resolution by the authority and any action taken by the authority prior to January 1, 2000, with regard to any project or program which is to be completed within or to be conducted for a 12-month period following January 1, 2000, and which resolution or action is lawful under state law as it existed prior to January 1, 2000, is a lawful resolution or action of the successor agency and binding upon the successor agency and enforceable by or against the agency notwithstanding that the resolution or action

is inconsistent with, not authorized by, or prohibited under the provisions of the Nebraska Housing Agency Act.

(D) All Commissioners of the local housing agency and all officers, legal counsel, technical experts, directors and other appointees or employees of the agency holding office or employment by virtue of any prior law on January 1, 2000, shall be deemed to have been appointed or employed under the Nebraska Housing Agency Act.

(1999 Code, § 2-208) (Ord. 00-18, passed 6-6-2000)

§ 34.37 OWNERSHIP.

(A) The Municipal Housing Authority is owned by the municipality and operated through the Housing Authority Commission.

(B) The Housing Authority shall constitute a body corporate and politic, and shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Nebraska Housing Authority Law.

(1999 Code, § 2-209)

§ 34.38 DEFINITIONS.

Except as otherwise specifically provided, the definitions and terms set out in the Nebraska statutes relating to housing authorities under the Nebraska Housing Authority Law are hereby adopted by reference as they now exist or may hereafter be amended.

(1999 Code, § 2-210)

§ 34.39 OPERATION AND MANAGEMENT.

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

(A) It may rent or lease dwelling accommodations therein only to persons of low income, elderly or handicapped persons of low income and displaced persons in need.

(B) There shall be no discrimination in the eligibility or occupancy of tenants on the basis of race, religion, color, creed, national origin or ancestry.

(C) The Authority shall not accept any person as a tenant in any dwelling in the housing project if the applicant has an annual income which equals or exceeds the amount which the Authority has conclusively determined to be sufficient to enable one to secure, safe, sanitary and uncongested dwelling accommodations within the area served by the Authority and to provide an adequate standard of living.

(D) The Authority may rent or lease to a tenant a dwelling consisting of a number of rooms which is deemed necessary to provide safe and sanitary accommodations to the occupants without overcrowding.

(E) The Authority shall fix income limits for occupancy and rents after taking into consideration:

(1) The family size, composition, age, physical handicaps and other factors which might affect the rent-paying ability of the person; and

(2) The economic factors which affect the financial stability and solvency of the project.

(F) The Authority may accept as a tenant any displaced person or persons in need, regardless of income, but in no event shall the person or persons remain as a tenant or tenants of the Authority for more than a period of six months unless the persons also qualify as persons of low income, elderly or handicapped persons of low income.

(G) All persons of low income, elderly or handicapped persons of low income, or displaced persons in need, shall be entitled to the benefits of this subchapter and the Authority may establish rules and regulations consistent with the purposes of this subchapter concerning eligibility and occupancy of the housing project or other shelter.

(H) Nothing herein shall prohibit the right of the Authority to inquire into the financial condition, family composition, medical, personal and employment history of any tenant or prospective tenant.

(I) The Authority shall prohibit subletting by tenants.
(1999 Code, § 2-211)

§ 34.40 RULES AND REGULATIONS.

The Housing Authority may establish from time to time rules and regulations consistent with the purposes of the Nebraska Housing Authorities Law concerning the priority of eligible applicants for occupancy who are entitled to the benefits of status as a member of the armed forces or veteran, or as a disabled member of the armed forces or veteran and the applicant's age or disability, housing conditions, urgency of housing need and source of income. In any system of priority, displaced persons in need shall have a priority ahead of all other persons who may be entitled to the benefits of the law. No tenant in good standing in occupancy and qualified for continued occupancy shall have his or her tenancy terminated in order to provide dwelling units for classes or categories of applicants as the authority may establish.

(1999 Code, § 2-212)

§ 34.41 REPORTS.

The Housing Authority shall keep an accurate account of all its activities and of all its receipts and disbursements and shall make an annual report at the second regular meeting in January of each year to the governing body.
(1999 Code, § 2-213)

§ 34.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this code, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) Whenever, in any action, it is established that a nuisance exists, the Court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.
(1999 Code, § 1-1001) (Ord. 00-20, passed 6-6-2000)