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CHAPTER 2 – COMMISSIONS AND BOARDS

Article 1 – Appointment of Board Members

SECTION 2-101: GENERAL PROVISIONS

At the organizational meeting of the Village Board, the chairman shall appoint members of such boards as the board may create by ordinance or resolution. The membership of such boards may be changed at any time by the village chairman, who shall be a member *ex officio* of each board.

Article 2 – Board of Health

SECTION 2-201: 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. In the event no physician resides within the village, the chairman shall appoint a citizen at large to serve instead. If the Village Board has appointed a police chief, he or she may be appointed to the Board of Health and serve as secretary and quarantine officer. If the village has a contract with the Seward County sheriff for law enforcement services, the chairman may appoint the county sheriff to serve as secretary and quarantine officer. The members of the board shall serve one-year terms of office, unless removed by the village chairman with the advice and consent of the trustees. (Neb. Rev. Stat. §17-208)

SECTION 2-202: 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 2-203: 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 2-204: ENFORCEMENT OFFICIAL

The village law enforcement official, if appointed as the quarantine officer, shall be the chief health officer of the village. It shall then be his or her 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)

SECTION 2-205: STATE RULES

The publication *Rules and Regulations Relating to Public Health*, Nebraska Department of Health, is hereby incorporated by reference when the same is applicable to the village, in its present form and as it may hereafter be amended. One copy of the said publication shall be filed at the office of the village clerk and shall be available for public inspection during office hours. (Neb. Rev. Stat. §18-132)

SECTION 2-206: COUNTY HEALTH BOARD

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

Article 3 – Park Board

SECTION 2-301: MEMBERS; TERMS

The Village Board shall act as the Park Board but may appoint one or more members to have actual charge of the park.

SECTION 2-302: DUTIES

The board shall establish appropriate rules and regulations for the management, use and operation of the village park(s). All employees of the village doing work in or for the village parks shall be under the supervision and direction of the board or the member in charge of the parks. All actions of the board member designated to be in charge of the parks shall be subject to the review and control of the Village Board.

Article 4 – Tree Board

SECTION 2-401: OPERATION

The Tree Board shall consist of volunteers from the community. 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 constitute a quorum for the transaction of business. Members of the Tree Board shall serve without compensation.

SECTION 2-402: DUTIES AND RESPONSIBILITIES

It shall be the responsibility of the Tree Board to study, investigate, counsel, develop, update annually, and administer written plans, both annual and long-range, for the care, replacement, maintenance, and removal or disposition of trees and shrubs in parks, along streets, and in other public areas within the village. Said plan(s) will be presented annually to the Village Board and, upon acceptance and approval by the board, shall constitute the official comprehensive village tree plan. The Tree Board, when requested by the Village Board, shall consider, investigate, and make findings, reports, or recommendations upon any special matter or question relating to trees.

SECTION 2-403: TREES; DEFINITIONS

"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 village 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 2-404: TREES; SPECIES TO BE PLANTED

The official street tree list for the village as adopted and periodically modified by the Tree Board shall be filed in the office of the village clerk. No species other than those included in said list may be planted as street trees without written permission of the Tree Board.

SECTION 2-405: TREES; SPACING

The spacing of street trees will be in accordance with the three species size classes listed in the tree list. No trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect.

SECTION 2-406: TREES; DISTANCE FROM CURB AND SIDEWALK

The distance that trees may be planted from curbs or curb lines and sidewalks will be

in accordance with the three species size classes listed in the tree list. No trees may be planted closer to any curb or sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; and large trees, 4 feet.

SECTION 2-407: TREES; DISTANCE FROM STREET CORNERS AND FIRE HYDRANTS

No street tree shall be planted closer than 35 feet from any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than 10 feet from any fire hydrant.

SECTION 2-408: TREES; UTILITIES

No street trees other than those species listed as small trees may be planted under or within 10 lateral feet of any overhead utility wire or over or within 5 lateral feet of any underground water line, sewer line, transmission line, or other utility.

SECTION 2-409: TREES; MAINTENANCE, REMOVAL; PLANTING BY ADJACENT PROPERTY OWNERS

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

B. The Village Board or its designated representative 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 sewers, electric power lines, gas lines, water lines, or other public Improvements or is affected with any injurious fungus, insect, or other pest.

C. This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and location of said trees is in accordance with this article.

SECTION 2-410: TREES; 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 article at the determination of the Village Board or its designated representative.

SECTION 2-411: TREES; PRUNING; CLEARANCE

Every owner of any tree overhanging any street or right of way within the village shall prune the branches so that they do not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 10 feet above the surface of the street or sidewalk. Said owner shall remove all dead, diseased, or dangerous trees and broken or decayed limbs which constitute a menace to the safety of the public. The village shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

SECTION 2-412: TREES; DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY

A. The village shall have the right to cause the removal of any dead or diseased trees on private property when such trees constitute a hazard to life and property or harbor insects or disease, which constitute a potential threat to other trees. The Village Board or its designated representative will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of the owners to comply with such provisions, the village shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

B. 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 village that such work be accomplished by the village 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 village after being properly billed, the costs shall be assessed against the property and certified by the village clerk to the county treasurer to be collected in the manner prescribed by law.

C. 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.

SECTION 2-413: TREES; REMOVAL OF STUMPS

All stumps of street and 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 2-414: INTERFERENCE

It shall be unlawful for any person to prevent, delay, or interfere with the Village Board or any of its agents while they are engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this article.

SECTION 2-415: ARBORISTS; LICENSE; LIABILITY INSURANCE

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 village without first applying for and procuring a license from the village. No license shall be required of any public service company or village 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 property damage indemnifying the village or any person injured or damaged resulting from the pursuit of such endeavors as herein described. (Neb. Rev. Stat. §17-555)

Article 5 – Planning Commission

(Neb. Rev. Stat. §§19-924 through 19-929) (Am. Ord. No. 00-03, 4/5/00)

SECTION 2-501: MEMBERS

The Planning Commission shall consist of five members who shall represent, insofar as is possible, the different professions or occupations in the village and shall be appointed by the chairman by and with the approval of a majority vote of the Village Board. Two of the regular members may be residents of the area over which the village is authorized to exercise extraterritorial zoning and subdivision regulation. When there is a sufficient number of residents in the area over which the village exercises extraterritorial zoning and subdivision regulation, one regular member of the commission shall be a resident from such area. If it is determined by the Village Board that a sufficient number of residents reside in the area subject to extraterritorial zoning and subdivision regulation and no such resident is a regular member of the commission, the first available vacancy on the commission shall be filled by the appointment of such an individual. For purposes of this section, “a sufficient number of residents” shall mean 200 residents. All regular members of the commission shall serve without compensation and shall hold no other village office except when appointed to serve on the Board of Adjustment as provided in Neb. Rev. Stat. §19-908.

SECTION 2-502: ALTERNATE MEMBER

The chairman, with the approval of a majority vote of the Village Board, may by ordinance provide for the appointment of one alternate member to the commission, who shall serve without compensation and shall hold no other village 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 chairman with the approval of a majority of the Village Board. The alternate member may attend any meeting and may serve as a voting and participating member of the commission at any time when less than the full number of regular commission members is present and capable of voting.

SECTION 2-503: TERMS; VACANCIES

The term of each regular Planning Commission member shall be three years. All regular members shall hold office until their successors are appointed. Any member may, after a public hearing before Village Board, be removed by the chairman with the consent of a majority vote of the board members for inefficiency, neglect of duty, malfeasance in office, or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by the chairman.

SECTION 2-504: OFFICERS; MEETINGS

The Planning Commission shall elect its chairman from its members and create and fill such other of its offices as it may determine. The term of the chairman shall be one year and he or she shall be eligible for re-election. The commission shall hold at least one regular meeting in each calendar quarter, except the Village Board may require the commission to meet more frequently and the chairman of the commission may call for a meeting when necessary to deal with business pending before the commission. A number of commissioners equal to a majority of the number of regular members appointed to the commission shall constitute a quorum for the transaction of any business. The commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record.

SECTION 2-505: FUNDING

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

SECTION 2-506: POWERS AND DUTIES; APPEAL

A. Except as provided in Neb. Rev. Stat. §§19-930 to 19-933, the Planning Commission shall (1) make and adopt plans for the physical development of the village, including any areas outside its boundaries which in the commission's judgment bear relation to the planning of such village and including a Comprehensive Development Plan as defined by Neb. Rev. Stat. §19-903; (2) prepare and adopt such implemental means as a capital improvement program, subdivision regulations, building codes, and a zoning ordinance in cooperation with other interested municipal departments; and (3) consult with and advise public officials and agencies, public utilities, civic organizations, educational institutions, and citizens with relation to the promulgation and implementation of the Comprehensive Development Plan and its implemental programs. The commission may delegate authority to any such group to conduct studies and make surveys for the commission, make preliminary reports on its findings, and hold public hearings before submitting its final reports. The Village Board shall not take final action on matters relating to the Comprehensive Development Plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning until it has received the recommendation of the Planning Commission. The Village Board shall by ordinance set a reasonable time within which the recommendation from the commission is to be received. A recommendation from the commission shall not be required for subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights of way or easements is involved, and such subdivision complies with the ordinance requirements concerning minimum areas and dimensions of such lots and blocks, if the Village Board has designated an agent by ordinance pursuant to Neb. Rev. Stat. §19-916.

B. The commission may, with the consent of the Village Board, 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 village, (4) employ agents and employees, and (5) acquire, hold, and dispose of property. The commission may on its own authority make arrangements consistent with its program, conduct or sponsor special studies or planning work for any public body or appropriate agency, receive grants, remuneration, or reimbursement for such studies or work, and at its public hearings, summon witnesses, administer oaths, and compel the giving of testimony.

C. The commission may grant conditional uses or special exceptions to property owners for the use of their property if the Village Board has, through a zoning ordinance or special ordinance, generally authorized the commission to exercise such powers and has approved the standards and procedures adopted by the commission for equitably and judiciously granting such conditional uses or special exceptions. The granting of a conditional use permit or special exception shall only allow property owners to put their property to a special use if it is among those uses specifically identified in the zoning ordinance as classifications of uses which may require special conditions or requirements to be met by the owners before a use permit or building permit is authorized. The power to grant conditional uses or special exceptions shall be the exclusive authority of the commission, except that the Village Board 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 board may exercise such power if it has formally adopted standards and procedures for granting such conditional uses or special exceptions in a manner that is equitable and will promote the public interest. An appeal of a decision by the commission or Village Board regarding a conditional use or special exception shall be made to the District Court.

SECTION 2-507: JOINT PLANNING COMMISSION

The Village of Beaver Crossing is hereby authorized by ordinance to make, adopt, amend, extend, and carry out a municipal plan as provided by law. The chairman, pursuant to an ordinance duly passed for that purpose, was authorized to bind the village to join with any incorporated villages, cities, and county that are eligible and may wish to participate in the creation of the Seward County Joint Planning Commission through the execution of the Seward County Joint Planning Commission Interlocal Cooperation Agreement.

Article 6 – Board of Adjustment

(Neb. Rev. Stat. §§19-907 through 19-910)

SECTION 2-601: POWERS AND DUTIES

The Village Board shall serve as the Board of Adjustment, which may exercise only those powers granted to Boards of Adjustment by Neb. Rev. Stat. §19-910. The rules and procedures adopted by the Board of Adjustment shall be in harmony with Neb. Rev. Stat. §§19-907 to 19-910 and shall have the powers and duties therein provided for the Board of Adjustment and other parties shall have all the rights and privileges therein provided for. The concurring vote of two-thirds of the members of the Village Board, acting as the Board of Adjustment, shall decide any question upon which it is required to pass as such board. (Ord. No. 00-04, 4/5/00)

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.