

## CHAPTER II

## COMMISSIONS AND BOARDS

### ARTICLE I – BOARD OF HEALTH

#### SECTION 2-101: MEMBERS; OFFICERS; DUTIES

1. The City Council shall appoint a Board of Health, which shall consist of five members. The members of the Board shall include the mayor, who shall serve as chairperson; a physician who shall be the Board's medical advisor; the chief of police, who shall serve on the Board as secretary and quarantine officer; the President of the City Council; and one other member. The members of the Board shall serve a one-year term of office, unless reappointed, without compensation, and shall reorganize at the first meeting in December of each year. No member of the Board of Health shall hold more than one Board of Health position.

2. 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. The Board of Health shall be funded by the City Council from time to time out of the General Fund. A majority of the Board shall constitute a quorum for the purpose of doing business. The Board shall meet at such 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.

3. The Board 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. 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 enforce all laws of the State of Nebraska and ordinances of the City relating to nuisances and to matters of sanitation, which affect the health, and safety of the people. The Board shall regularly inspect such premises and businesses as the City Council may direct. All members of the Board shall be responsible for making such reports and performing such other duties as the City Council may, from time to time, designate. (Ref. Neb. Rev. Stat. §16-238)



## ARTICLE II –BOARD OF PARK COMMISSIONERS

### SECTION 2-201: MEMBERS; TERM; OATH; COMPENSATION

The mayor, with the consent and approval of the City Council, shall appoint the Board of Park Commissioners. The Board shall consist of not less than six members, who shall be residents of the City. No member of the City Council shall serve as a park commissioner while serving as a member of the City Council. The members of the Board shall serve a three-year term of office unless reappointed. Before entering upon his/her duties, each park commissioner shall take an oath, filing it with the city clerk, that he/she will faithfully perform the duties of his/her office and not in any manner be influenced by personal or political motivation. The Board shall serve without compensation and may be required, in the discretion of the City Council, to give a bond in a sum set by resolution of the City Council and conditioned upon the faithful performance of their duties. (Ref. Neb. Rev. Stat. §16-696)

### SECTION 2-202: ORGANIZATION; MEETINGS

At the time of the Board's first meeting in February of each year, the members shall organize by selecting from their number a president and a secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the city clerk where they shall be available for public inspection at any reasonable time. A majority of the Board members shall constitute a quorum for the transaction of business. The Board shall meet once a month at such time as the City Council may designate. Special meetings may be held upon the call of the president or any two of the Board members. A majority of the Board shall constitute a quorum for the transaction of business and a majority vote of the total membership shall be required to pass any motion or resolution. A tie vote of the Board shall be broken by the mayor. (Ref. Neb. Rev. Stat. §16-696)

### SECTION 2-203 DUTIES

The Board shall have the following authority and responsibility for the parks:

1. To establish appropriate rules and regulations for the management, use and operation of all parks and recreational facilities owned or operated by the City. These rules can establish special use areas within the public park system for specific activities, which are identified in the rules.
2. To plan the recreational equipment, landscaping and overall improvements for all parks. The Board shall have the authority to make expenditures for these purposes from funds collected by taxes as provided by state statute or by donations to the credit of the Park Fund, subject to review and approval by the City Council for expenditures exceeding \$1,000.00. Prior to making any expenditure, regardless of the amount, the Board will confirm with the city administrator or the

city clerk that the funds are within the park budget and are available. The city treasurer shall have the physical custody of all park funds, monies, credits, securities, and all other financial assets as required by law.

3. To prohibit the use of the parks and recreational facilities by automobiles and all other motor powered vehicles regardless of the number of wheels on them. The Board shall have authority to establish certain areas within which certain vehicles may be used and to limit the use to specific purposes.

4. To regulate the circumstances in which animals are allowed in the parks, and to require the owners to dispose of excrement deposited in the park by the animals in a proper receptacle.

5. The Board of Park Commissioners shall carry out its responsibilities through the city administrator or the public works director, and if these persons are unavailable, then through the mayor. The city administrator shall be responsible for carrying out the decisions of the Board in regard to the use of city employees to accomplish any actions taken by the Board and for the actual purchase of items for the parks and recreational facilities. All employees of the City doing work in or for the city parks and recreational facilities shall be under the supervision and direction of the city administrator or the public works director, or if these persons are not available, the mayor. All actions and proposed actions of the Board shall be subject to the review and control of the City Council. The Board shall be responsible for making such reports and performing such other duties as the City Council may, from time to time, designate.

#### SECTION 2-204: OPERATION AND FUNDING

The City owns and operates the city parks and other recreational areas through the Board of Park Commissioners. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the city 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 placed into the General Fund and shall remain in the custody of the city clerk/treasurer. Monies so levied and collected will be set aside by the City Council in the city budget for operation and maintenance of the city parks and this will be known as the Park Fund. (Ref. Neb. Rev. Stat. §16-697)

#### SECTION 2-205: INJURY TO PARK PROPERTY

It shall be unlawful for any person to maliciously or willfully cut down, injure or destroy any tree, plant or shrub. It shall be unlawful for any person to injure or destroy any sodded or planted area, or injure or destroy any building, structure, equipment, fence, bench, table or any other property of the city parks and recrea-

tional areas. No person shall commit any waste on or litter the city parks or other public grounds. (Ref. Neb. Rev. Stat. §16-697.01)

#### SECTION 2-206 CURFEW IN CITY PARKS

All areas designated by the City as public parks shall be closed to the public from 11:00 P.M. until 5:00 A.M., and no person shall enter upon said property during that time; provided that this section shall not be applicable to (1) a sports event in progress and those persons in attendance are within the immediate area of such event, which must have had prior approval by the proper city officials and (2) the City's boat dock and immediate area when parking is used solely for the purpose of fishing.



## ARTICLE III – CIVIL SERVICE COMMISSION

### SECTION 2-301: MEMBERS; OATH; COMPENSATION

The Civil Service Commission shall consist of three members appointed by the mayor with the advice and consent of a majority of the City Council. Each commissioner shall be: (1) able to read and write the English language; (2) a citizen of the United States; (3) a resident of the City of Plattsmouth for at least three years immediately preceding his/her appointment; and (4) an elector of Cass County; except that at the time of any appointment, not more than two commissioners, including the ones to be appointed, shall be registered electors of the same political party.

Before entering upon his/her duties, each commissioner shall take an oath to be filed with the city clerk that he/she will faithfully perform the duties of his/her office and will not in any manner be actuated or influenced therein by personal or political motivation. All civil service commissioners shall serve without compensation.

### SECTION 2-302: TERM OF OFFICE; REMOVAL

The term of office of commissioners shall be six years and until their successors are appointed and qualified, unless sooner removed. Any member may be removed from office for incompetence, dereliction of duty, malfeasance in office or other good cause by the mayor and City Council; except that no member of the Commission shall be removed until written charges have been preferred, due notice given such member, and a full hearing had before the mayor and City Council.

### SECTION 2-303: ORGANIZATION; OFFICERS

Immediately after the appointment of the Commission and annually thereafter, the Commission shall organize by electing one of its members as chairperson; the Commission shall further appoint a secretary and chief examiner.

The Commission may merge the positions of secretary and chief examiner and appoint one person to perform the duties of both positions. The commission secretary and chief examiner shall be subject to suspension or discharge upon the vote of a majority of the appointed members of the Commission.

### SECTION 2-304: RECORDS

It shall be the duty of the secretary and chief examiner to keep the records of the Commission, preserve all reports made to it, superintend and keep records of all examinations held under its direction and perform such other duties as the Commission may prescribe.

## SECTION 2-305: MEETINGS

The Civil Service Commission shall hold meetings as may be required for the proper discharge of its duties. Two members of the Commission shall constitute a quorum for the transaction of business.

## SECTION 2-306: DUTIES

It shall be the duty of the Civil Service Commission to:

1. Adopt and promulgate procedural rules and regulations consistent with the Civil Service Act, which shall provide in detail the manner in which examinations may be held and any matters assigned by the mayor and City Council. All actions of the Civil Service Commission shall conform to and be governed by the Civil Service Act.
2. To provide that all tests shall be practical and consist of subjects which will fairly determine the capacity of persons who are to be examined to perform the duties of the position to which an appointment is to be made and may include, but not be limited to, tests of physical fitness and of manual skill and psychological testing.
3. To provide rules and regulations for credit to be given to all applicants for entry level positions for service to, and honorable discharge from, the armed forces of the United States, and who have equaled or exceeded the minimum qualifying standard established by the mayor and City Council; such credit to be that directed by statute. Entry level positions eligible for such credits are to be defined by the mayor and City Council.
4. To conduct an investigation concerning and report upon all matters regarding the enforcement and effect of the Civil Service Act and the rules and regulations prescribed.
5. To provide that all hearings and investigations before the Commission, designated commissioner or chief examiner shall be governed by the Civil Service Act and the rules of practice and procedure to be adopted by the Commission.
6. To establish and maintain in suitable form a roster of officers and employees.
7. To provide for, establish and hold competitive tests to determine the relative qualifications of persons who seek employment in any position, and as a result thereof, establish eligible lists for the various positions. Upon the request of the mayor and City Council, the Commission shall establish a list of those eligible for appointment to a promotion within the Civil Service Department and to maintain such list for a period of time as set by the mayor and City Council.
8. To certify, upon request when a vacant position is to be filled, to the mayor and City Council the names of the persons who are the three highest on the eligible list following the most recent examinations, and whose qualifications have been validated by the Commission.
9. To keep such records as may be necessary for the proper administration of



their responsibilities.

10. To begin and conduct civil suits which may be necessary for the proper enforcement of the Civil Service Act and the rules of the Commission.
11. To make recommendations concerning reductions in force policy to the mayor and City Council.

#### SECTION 2-307: CONCURRENCE BY MAJORITY

An order, decision, rule or regulation made by any designated commissioner conducting any hearing or investigation alone shall not have any force or effect unless it is concurred in by a majority of the appointed members of the Commission, including the vote of the commissioner making the investigation.

#### SECTION 2-308: RULES AND REGULATIONS

Any rules, regulations or amendments thereto promulgated by the Civil Service Commission shall be filed with the city clerk, with at least one copy of such rules, regulations and amendments being made available for examination and reproduction by members of the public, and one copy being given to each fulltime firefighter and police officer. Such procedures shall comply with the minimum due process requirements.

#### SECTION 2-309: INVESTIGATIONS

The Commission may inspect all institutions, departments, positions and employments affected by the Civil Service Act to determine whether such Act and all rules and regulations adopted by the Commission are being obeyed. Such investigations may be conducted by the Commission or by any commissioner designated by the Commission for that purpose. The designated commissioner or chief examiner shall have the power to administer oaths, issue subpoenas, require the attendance of witnesses, require the production of books, paper, documents and accounts pertinent to the investigation and to cause deposition of witnesses residing within or without the state in the manner prescribed by law. Such investigation shall also be made upon the written petition of a citizen, duly verified, stating that irregularities or abuses exist or setting forth, in concise language, the necessity for such investigation.

#### SECTION 2-310: HEARINGS

Upon completion of investigations in accordance with Section 2-309, the Commission shall hold a public hearing after giving reasonable notice to the accused of the time and place of such hearing. Such hearing shall be held not less than ten or more than 20 days after filing of the written demand for an investigation and a decision shall be rendered no later than ten days after the hearing.



## ARTICLE IV – HOUSING AUTHORITY

### SECTION 2-401: HOUSING AUTHORITY BOARD

1. The City Council shall appoint five persons who shall constitute the Housing Authority and such 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/her successor is duly appointed; provided that all vacancies shall be filled for the unexpired terms. The City Council may appoint one of its members to serve as one of the five members of such Housing Authority for such term as the Council may determine.
2. No person shall serve as a commissioner unless he or she resides within the area of operation of the Housing Authority. A certificate of the appointment or reappointment of any commissioner shall be filed with the city clerk and such certificate shall be conclusive evidence of the proper appointment of such commissioner.
3. A commissioner shall receive no compensation for his/her services, but he/she shall be entitled to the necessary expenses, including travel expenses, incurred in discharge of his/her duties.
4. 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.
5. The commissioners shall elect a chairman and vice-chairman from among their number 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 City for such services as it may require. It may employ technical experts and such other officers, agents and employees as it may require and shall determine their qualifications, duties, compensations and terms of office. The Authority may delegate such other powers and duties to its agents or employees as it may deem proper.
6. During his/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 such commissioner, officer or employee involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment as commissioner, officer or employee, he/she shall immediately disclose his/her interest in writing to the

Authority. Such disclosure shall be entered upon the minutes of the Authority and he/she shall not participate in any action by the Authority relating to the property or contract in which he/she has any such 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.

7. 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 such commissioner, which notice shall contain a statement containing the charges against him/her. Unless within ten days from the receipt of such notice such commissioner files with the clerk a request for a hearing before the City Council, he/she shall be deemed to be removed from office. If a request for a hearing is filed with the clerk, the City Council shall hold a hearing at which the commissioner shall have the right to appear in person or by counsel and the City Council shall determine whether the removal shall be disapproved or upheld. If the removal is disapproved, the commissioner shall continue to hold his/her position.

#### SECTION 2-402: MISCONDUCT IN OFFICE

Misconduct in office shall apply to the Housing Authority commissioners, the executive director and all other employees. Such officials and employees shall not engage in any political activities on Housing Authority property nor make any political statements to any residents of such Housing Authority. To engage in such political activities or make such political statements shall be grounds for immediate removal of any official and dismissal of any employee engaging in such conduct.

#### SECTION 2-403: REPORTS

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 City Council on all such information.

#### SECTION 2-404: OWNERSHIP

The Municipal Housing Authority is owned by the City and operated through the Housing Authority commission members. 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.

## SECTION 2-405: 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.

## SECTION 2-406: OPERATION AND MANAGEMENT

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

1. 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.
2. There shall be no discrimination in the eligibility or occupancy of tenants on the basis of race, sex, marital status, religion, color, creed, national origin or ancestry.
3. The Authority shall not accept any person as a tenant in any dwelling in the housing project if the persons who occupy the dwelling have an aggregate 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.
4. 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.
5. The Authority shall fix income limits for occupancy and rents after taking into consideration:
  - a. The family size, composition, age, physical handicaps, and other factors which might affect the rent-paying ability of the person.
  - b. The economic factors which affect the financial stability and solvency of the project.
6. The Authority may accept as tenants any displaced persons in need, regardless of income, but in no event shall such persons remain as tenants of the Authority for more than a period of six months unless such persons also qualify as persons of low income, elderly or handicapped persons of low income.
7. 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 Article; and the Authority may establish rules and regulations consistent with the purposes of this Article concerning eligibility and occupancy of the housing project or other such shelter.
8. 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.
9. The Authority shall prohibit subletting by tenants.

The Authority may from time to time establish rules and regulations consistent with federal and state laws and regulations and with the purposes of this Article concerning the termination of tenancy. Any tenant so terminated shall be sent a written notice setting out the reasons for such termination. Any tenant served with a notice shall be given the opportunity to contest the termination in an appropriate hearing, except that tenants who have created or maintained a threat constituting a serious and clear danger to the health or safety of other tenants or Authority employees need not be given such a hearing by the Authority. Such notice may provide that if the tenant fails to pay his or her rent or comply with any covenant or condition of his or her lease or the rules and regulations of such Authority, or cure a violation or default thereof, as the case may be, as specified in such notice, or follow the procedure for a hearing as set forth in the notice, all within the time or times set forth in such notice, the tenancy shall then be automatically terminated and no other notice(s) need be given of such termination or the intent to terminate the tenancy. Upon such termination and without any notice other than as provided for in this section, the Authority may file suit against any tenant for recovery of possession of the premises and may recover the same as provided by law.

The Authority may from time to time establish rules and regulations consistent with the purposes of this Article concerning personal property of tenants and other persons located in projects of the Authority, and if such personal property is not removed from a dwelling unit at the time of the termination of the lease, at the time of vacation or abandonment of the dwelling unit, or at the time of the death of any tenant, then the Authority may remove the same and store such property at the tenant's risk and expense. In the event that possession of such personal property is not taken by the tenant or other person authorized by law to take possession within 45 days after such termination, vacation or abandonment, and any storage removal charges remain unpaid, then the Authority may, at its option, dispose of the personal property in any manner which the Authority deems fit, except that any proceeds from the disposal of such personal property shall be paid to the general fund of the body which created the Authority. No tenant or other person shall have any cause of action against the Authority for such removal or disposition of such personal property.

ARTICLE V – UTILITY SERVICES BOARD  
(All of Chapter 2, Article 5 repealed by Ordinance No. 1776)

ARTICLE VI – CEMETERY BOARD

SECTION 2-601: MEMBERS; TERM OF OFFICE; OATH; COMPENSATION

The Cemetery Board shall consist of six members appointed by the mayor with the advice and consent of a majority of the City Council. Each board member shall be a resident of the City. No member of the City Council shall serve as a board member while serving a term of office as a member of the City Council.

The term of office of the Cemetery Board shall be three years and until their successors are appointed and qualified, unless sooner removed. After a public hearing before the City Council, all members may be removed by the mayor, by and with the consent of the City Council, for inefficiency, neglect of duty or malfeasance in office or other good and sufficient cause. Vacancies occurring in the Cemetery Board shall be filled by appointment for the unexpired term.

Before entering upon his/her duties, each board member shall take an oath to be filed with the city clerk that he/she will faithfully perform the duties of his/her office and not in any manner be actuated or influenced therein by personal or political motivation. Members of the Cemetery Board shall serve without compensation.

SECTION 2-602: ORGANIZATION; OFFICERS

At the time of the Cemetery Board's first meeting in February of each year, the Board shall organize by selecting from their number a president and secretary; provided, no member shall serve in the capacity of both president and secretary. It shall be the duty of the secretary to keep 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.

SECTION 2-603: MEETINGS

The Cemetery Board shall meet once a month on such date and at such time as designated by the City Council. Special meetings may be held upon the call of the president or any three of the board members. A majority of the Cemetery Board shall constitute a quorum for the transaction of business and a majority vote of the total membership shall be required to pass any motion or resolution. A tie vote of the Board shall be broken by the vote of the mayor.

SECTION 2-604: DUTIES

The Cemetery Board shall have the following duties:

1. To take charge of the cemetery facilities of the City; to adopt rules and regulations for the management, use and operation of the same, including but not limited to the platting, charges for care and maintenance, use of equipment, the erection of monuments, platting of land into lots, purchase of additional land and lot improvements.
2. The Board shall have the duty to draw a set of rules and bylaws governing the management and care of the cemetery; a copy of such rules, bylaws and regulations when adopted, amended, altered or revised, shall be forwarded to the City Council and filed with the city clerk.
3. The Cemetery Board shall further have the duty to employ a sexton, who shall be appointed by the mayor with approval of a majority of the City Council, and all other necessary labor and assistants as they may deem necessary from persons not belonging to said board, to the extent that funds may be provided for such purpose, and shall have supervisory authority over such employees.

All actions of the Cemetery Board shall be subject to the review and supervision of the City Council.

#### SECTION 2-605: REPORTS

The Cemetery Board shall be responsible for making such reports and performing such other duties as the City Council may from time to time designate.

#### SECTION 2-606 CONTROL AND CUSTODY OF FUNDS AND PROPERTY

1. The city may survey, plat, map, grade, fence, ornament, and otherwise improve all burial and cemetery grounds and avenues leading thereto owned by such city. It may construct walks, rear and protect ornamental trees therein, and provide for paying the expenses thereof.
2. After the burial and cemetery grounds are fully paid for, the city may 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 twenty percent of the principal is so used in any fiscal year and no more than forty percent 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 twenty-five percent of the principal is so used in any fiscal year and no more than thirty-five percent of the principal is so used in any period of ten consecutive fiscal years.



3. The city 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 twenty percent of the principal is so used in any fiscal year and no more than forty percent 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 twenty-five percent of the principal is so used in any fiscal year and no more than thirty-five percent of the principal is so used in any period of ten consecutive fiscal years.

4. The city treasurer shall be the custodian of such funds, and the same shall be invested by a board composed of the mayor, city treasurer, and city clerk.

5. This section does not limit the use of any money that comes to the city 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. . (Ref. Neb. Rev. Stat. § 16-242)

#### SECTION 2-607: POTTER'S FIELD

Lots number 488 to 456, inclusive, 523 to 531, inclusive, and 560 to 568, inclusive, in Oak Hills Cemetery shall be and hereby set apart for a Potter's Field. It shall be the responsibility of the sexton to determine whether or not a deceased person may be buried in Potter's Field and the sexton shall issue a permit for burial, upon application, designating the lot and number thereof.

#### SECTION 2-608: LOT BOOK

A lot book shall be kept at the office of the Cemetery Board which shall show actual dimensions of each lot and the location of each grave thereon.

#### SECTION 2-609 CURFEW IN THE PLATTSMOUTH CEMETERY

The Plattsmouth Cemetery shall be closed to the public from 11:00 P.M. until 5:00 A.M., and no person shall enter upon said property during that time. A violation of this provision shall be punishable by a fine of up to \$25.00.

#### SECTION 2-610 SPEED LIMIT IN THE PLATTSMOUTH CEMETERY

No person shall drive any motor vehicle within the limits of the city ceme-

tery at a higher rate of speed than ten miles per hour. A violation of this provision shall be punishable by a fine as follows:

1-5	\$10
6-10	\$25
11-15	\$75
16-20	\$125
21 and above	\$200

## ARTICLE VII – LIBRARY

### SECTION 2-701 ESTABLISHMENT OF A PUBLIC LIBRARY

The City owns and operates a library known as the Plattsmouth Public Library. The City shall keep and maintain the same and the term "public library" shall be held to mean the Plattsmouth Public Library. (Neb. Rev. Stat. § 51-201)

### SECTION 2-702 OPERATION

1. The Mayor and City Council shall have the power to make and adopt such by-laws, rules, and regulations for the government of the library and reading room as it may deem expedient, not inconsistent with Neb. Rev. Stat. §§ 51-201 through -219. (Neb. Rev. Stat. § 51-205)

2. The Mayor and City Council shall have exclusive control of expenditures, of all money collected or donated to the credit of the library fund, of the renting and construction of any library building, and the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased, or set apart for that purpose. They shall have the power to establish rules and regulations for the government of the library as may be deemed necessary for its preservation and to maintain its usefulness and efficiency. They shall have the power to fix and impose, by general rules, penalties and forfeitures for trespass upon or injury to the library grounds, rooms, books, or other property, for failure to return any book or for violation of any bylaw, rule, or regulation. The Mayor and City Council shall have and exercise such power as may be necessary to carry out the spirit and intent of Neb. Rev. Stat. §§ 51-201 through -219 in establishing and maintaining the library and reading room.

3. A library director may be appointed by the Mayor, subject to confirmation by the City Council. The library director shall have the care and custody of the grounds, buildings, rooms, equipment, books and supplies owned or used by the public library, and the general supervision thereof. (Neb. Rev. Stat. §§ 51-207 and -211)

### SECTION 2-703 FUNDING, CUSTODY OF FUNDS, AND DONATIONS

1. The governing body, for the purpose of defraying the cost of management, purchases, improvements, and maintenance of the library may each year levy a tax not exceeding the maximum limit prescribed by state law, on the taxable value of all the taxable property within the municipality.

2. The city treasurer shall have the custody of all tax monies and penalties collected, as well as other funds acquired for erection, maintenance or support of the public library, including any donations made to the City of Plattsmouth for the library. All monies received by the public library, exclusive of funds belonging to

any library foundation or other private organization established by citizens to help promote the library, shall be paid, not less than weekly, to the city treasurer. These funds shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the municipal library accepted by the Mayor and City Council.

3. If a library foundation or other private organization is established by citizens to help promote the library, the city treasurer shall not have the custody of funds belonging, or donated specifically, to such foundation of other private organization. (Neb. Rev. Stat. §§ 51-201, -209 and -215)

#### SECTION 2-704 LIBRARY ADVISORY BOARD

1. There is hereby established a library advisory board which shall consist of five (5) residents of the City, appointed by the mayor with the approval of the city council, serving four year terms. Neither the mayor nor a member of the city council shall be a member of such board. In the case of a vacancy, the mayor shall appoint a replacement, with approval of the city council, for the unexpired term. The existing terms of the members of the library board at the time of the passage of this chapter shall remain in effect. No member of the library advisory board shall receive pay or compensation for his or her services as a member of the board.

2. The library advisory board shall work with the library director, city administrator, mayor and city council to develop the public library, and shall have the following specific responsibilities to:

- a. advise the library director in developing and implementing policies;
- b. advise the library director regarding maintenance and expansion of the materials collection and programs;
- c. advise the library director in preparing an annual library budget, which budget shall be prepared by the library director in the format used by other city departments and divisions, and to periodically review library claims to ensure budgetary compliance;
- d. receive citizen input, comments and complaints regarding the materials collection, programs and services offered at the public library, and to report the same to the library director, with recommendations in response thereto;
- e. encourage use of the public library and promote its programs and services;

f. represent the city and public library within professional associations and at library functions;

g. adopt bylaws, rules and regulations for its own guidance as the board may deem necessary and as such shall not be inconsistent with this chapter; and

h. create, and recommend to the Mayor and City Council, appropriate rules and regulations for the use of the public library. (Neb. Rev. Stat. § 51-202)

#### SECTION 2-705 USE OF THE LIBRARY

1. The Mayor and City Council may exclude from the use of the library and reading rooms any person who willfully violates or refuses to comply with rules and regulations established for the government thereof. (Neb. Rev. Stat. § 51-212)

2. The basic services offered at the library shall be available without charge to all residents of the municipality. The Mayor and City Council may fix and impose reasonable fees, not to exceed the library's actual cost, for nonbasic services. (Neb. Rev. Stat. § 51-211)

3. For purposes of this section:

a. Basic services shall include, but not be limited to, free loan of circulating print and nonprint materials from the local collection and general reference and information services; and

b. Nonbasic services shall include, but not be limited to, use of photocopy equipment; telephones, facsimile equipment, and other telecommunications equipment; media equipment; personal computers; and video recording and playing equipment. (Neb. Rev. Stat. § 51-201.01)

#### SECTION 2-706 DISCRIMINATION PROHIBITED

No library service shall be denied to any person because of race, sex, religion, age, color, national origin, ancestry, physical handicap, or marital status. (Neb. Rev. Stat. § 51-211)

#### SECTION 2-707 PENALTIES; RECOVERY; DISPOSITION

Penalties imposed or accruing pursuant to the City's fee ordinance, and any court costs and attorney's fees, may be recovered in a civil action before any court having jurisdiction, such action to be instituted in the name of the City. (Neb. Rev. Stat. § 51-214)





## ARTICLE VIII – POLICE DEPARTMENT

### SECTION 2-801: CHIEF OF POLICE; APPOINTMENT

The police department shall consist of the chief of police and such further number of regular policemen as may be duly ordered by resolution of the Council. The chief of police shall be appointed and serve the term of office and be subject to removal, suspension and demotion by the mayor with the advice and consent of the City Council upon the certification of the Civil Service Department. (Ref. Neb. Rev. Stat. §16-225, 16-323)

### SECTION 2-802: DUTIES

It shall be the duty of the chief of police and all members of the police department:

1. To arrest all offenders against the laws of Nebraska or of the City, by day or by night, in the same manner as a sheriff or constable, and keep them in the city jail or other place to prevent their escape until a trial or examination may be had before the proper officer;
2. To exercise the same power as a sheriff in relation to all criminal matters arising out of a violation of the city law and all processes issued by the county court in connection with a violation of city law;
3. To arrest and detain any person found violating any law of Nebraska or any law of the City until a legal warrant can be obtained;
4. To have charge of traffic control on the city streets;
5. To execute and serve or cause to be served all processes;
6. To make and file or cause to be made and filed complaints for violations of the laws of the City;
7. To perform such other duties as are assigned to or required of them by the mayor and Council or otherwise provided by law;

and in addition, the chief of police shall have the duty:

8. To have custody of all city property used by the city police;
9. To be a member of the Board of Health and the secretary and quarantine officer thereof; and
10. To report monthly to the mayor all expenditures of the Department.  
(Ref. Neb. Rev. Stat. §16-225, 16-323)

### SECTION 2-803: RESERVE OFFICER BOND

No appointment of a law enforcement reserve officer shall be valid until a bond in the amount of \$2,000.00, payable to the City, has been filed with the city clerk by the individual appointed, or a blanket surety bond arranged and paid for by the



City Council and bonding all such officers of the City Council has been filed. Such bonds shall be subject to the provisions of Chapter 11, Article 1, Nebraska Revised Statutes. (Ref. Neb. Rev. Stat. §81-1444)

## SECTION 2-804 ARREST JURISDICTION

1. Every city police officer shall have the power and authority to enforce the laws of this state and the City or otherwise perform the functions of that office anywhere within his or her primary jurisdiction. Primary jurisdiction shall mean the geographic area within territorial limits of the City of Plattsmouth. The City Council may by resolution authorize, and has by Resolution No. 11-004 authorized, city police officers to exercise the City's police powers and jurisdiction on all real property owned by the City which is outside the territorial limits.

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

(a) Any city police officer, if in a fresh attempt to apprehend a person suspected of committing a felony, may follow such person into any other jurisdiction in this state and there arrest and detain such person and return such person to the officer's primary jurisdiction;

(b) Any city police officer, if in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, may follow such person anywhere in an area within 25 miles of the boundaries of the officer's primary jurisdiction and there arrest and detain such person and return such person to the officer's primary jurisdiction;

(c) Any city police officer shall have such enforcement and arrest and detention authority when responding to a call in which a local, state or federal law enforcement officer is in need of assistance. A law enforcement officer in need of assistance shall mean (i) a law enforcement officer whose life is in danger or (ii) a law enforcement officer who needs assistance in making an arrest and the suspect (A) will not be apprehended unless immediately arrested, (B) may cause injury to himself or herself or others or damage to property unless immediately arrested, or (C) may destroy or conceal evidence of the commission of a crime; and

(d) If the City, under the provisions of the Interlocal Cooperation Act, enters into a contract with any other municipality or county for law enforcement services or joint law enforcement services, law enforcement personnel may have such enforcement authority within the jurisdiction of each of the participating po-

litical subdivisions if provided for in the agreement. Unless otherwise provided in the agreement, the City shall provide liability insurance coverage for its own law enforcement personnel as provided in Neb. Rev. Stat. §13-1802. (Ref. Neb. Rev. Stat. §§ 29-215; 18-1706)

SECTION 2-805 WAS REPEALED (October 5, 2009)

## ARTICLE IX - AIRPORT AUTHORITY

### SECTION 2-901: JURISDICTION

The Airport Authority Board shall have the full and exclusive jurisdiction and control over all facilities owned or hereafter acquired by the City for the purpose of aviation operation, air navigation and air safety operation. The Board is a body corporate and politic, constituting a public corporation and an agency of the City. (Ref. Neb. Rev. Stat. §3-502)

### SECTION 2-902: MEMBERS; TERM OF OFFICE; COMPENSATION

The Board shall consist of five members, nominated and elected in the manner provided by law for the election of other elected officials, and such members shall take office at the same time as other elected officers. Members of the Board shall be residents of the City and shall serve a term of six years. Two members of the Board shall be elected in each municipal election year; provided that in each third election year, only one member shall be elected to the Board. Any vacancy on the Board resulting from any cause other than the expiration of a term of office shall be filled by temporary appointment, by the mayor with the approval of the City Council, to serve the unexpired portion of the term until a successor can be elected at the next general municipal election.

The members of the Board shall not be entitled to compensation for their services, but shall be entitled to reimbursement of expenses paid or incurred in the performance of their duties. (Ref. Neb. Rev. Stat. §3-502)

### SECTION 2-903: REMOVAL FROM OFFICE

A member of the Board may be removed from office for incompetence, neglect of duty, or malfeasance in office. An action for the removal of such officer may be brought, upon resolution of the City Council, in the District Court of the County. (Ref. Neb. Rev. Stat. §3-502)

### SECTION 2-904: DUTIES

The Board shall report to the City Council biannually, in writing or orally, on airport activities and issues, and shall have such other powers and duties as may be prescribed by state law. (Ref. Neb. Rev. Stat. §3-501 through 3-514)



## ARTICLE X - PLANNING COMMISSION

### SECTION 2-1001: MEMBERS; TERM OF OFFICE; OATH; COMPENSATION

The City Planning Commission shall consist of nine members who shall be appointed by the mayor, by and with the approval of 3/4 vote of the City Council. Two of such members may be residents of the area over which the City exercises extraterritorial zoning and subdivision regulations.

The term of office of members of the Planning Commission shall be three years and until their successors are appointed and qualified, unless sooner removed. All members may, after a public hearing before the City Council, be removed by the mayor, by and with a 3/4 vote of the City Council, for inefficiency, neglect of duty or malfeasance in office or other good and sufficient cause.

At the first meeting of the City Council in January of each year, the vacancy created by expiration of the commissioners' terms shall be filled by appointment of new members or reappointment of members. Vacancies occurring in the Planning Commission shall be filled by appointment for the unexpired term. Before entering upon his/her duties, each planning commissioner shall take an oath to be filed with the city clerk that he/she will faithfully perform the duties of his/her office and not in any manner be actuated or influenced therein by personal or political motivation. The members of the Planning Commission shall serve without compensation. (Ref. Neb. Rev. Stat. §19-926)

### SECTION 2-1002: ORGANIZATION; OFFICERS

At the time of the Planning Commission's first meeting in February of each year, the commissioners shall organize by selecting from their number a chairman and such other officers as the Commission shall determine to be required. The term of the chairman shall be one year and he/she shall be eligible for re-election. It shall be the duty of the Commission to keep 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. (Ref. Neb. Rev. Stat. §19-927)

### SECTION 2-1003: MEETINGS

The Planning Commission shall meet once each month on such date and time as designated by the City Council. Special meetings may be held upon the call of the chairman or any four of the commissioners. A majority of the Planning Commission shall constitute a quorum for the transaction of business and a majority vote of the total membership shall be required to pass any motion or resolution. Tie vote of the commissioners shall be broken by the vote of the mayor. (Ref. Neb. Rev. Stat. §19-927)

## SECTION 2-1004: DUTIES

It shall be the function and duty of the Commission to:

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 Nebraska statutes.
2. Prepare and adopt such implementing means as a capital improvement program, subdivision regulations, building codes and zoning ordinance in cooperation with other interested city departments.
3. Consult and advise with 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 implementing programs.
4. Have the power to 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.
5. The Commission may, with the consent of the City Council, in its own name, make and enter into contracts with public or private bodies, receive contributions, bequests, gifts or grant funds from public or private sources, expend the funds appropriated to it by the City, employ agents and employees and acquire, hold and dispose of property.
6. The Commission may on its own authority make arrangements consistent with its program; conduct or sponsor special studies or planning work for a 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.

(Ref. Neb. Rev. Stat. §19-929)

## SECTION 2-1005: FUNDS, LIMITS UPON EXPENDITURES

The City Council may provide the funds, equipment and accommodations necessary for the work of the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the City Council; and no expenditures or agreements for expenditures shall be valid in excess of such amounts. (Ref. Neb. Rev. Stat. §19-928)

## SECTION 2-1006: REPORTS

The Planning Commission shall be responsible for making such reports and per-

forming such other duties as the City Council may from time to time designate.

**SECTION 2-1007: ACTIONS BY CITY COUNCIL; RECOMMENDATION OF  
COMMISSION**

The City Council shall not hold its public meetings or take action on matters relating to the comprehensive development plan, capital improvements, building codes, subdivision development or zoning until it has received the recommendation of the Planning Commission; provided, the City Council may set a reasonable time within which the recommendation is to be received. (Ref. Neb. Rev. Stat. §19-901, 19-916, 19-919, 19-929)





ARTICLE XI – PERSONNEL BOARD  
(REPEALED)

ARTICLE XII - CITIZEN ADVISORY REVIEW COMMITTEE

SECTION 2-1201 ECONOMIC DEVELOPMENT PROGRAM

The mayor and City Council have been authorized by the electors of the City, at the City's primary elections held May 14, 2002, to adopt by ordinance an economic development program for the City as authorized by the Local Option Municipal Economic Development Act, Neb. Rev. Stat. §18-2701 et seq. The Economic Development Program of the City is amended as follows and shall be placed on file at the office of the City Clerk, and is adopted as authorized by the Local Option Municipal Economic Development Act:

**ECONOMIC DEVELOPMENT PLAN  
FOR THE CITY OF PLATTSMOUTH, NEBRASKA**

**Section I. General Community and Economic Development Strategy**

Due to the extremely competitive nature of economic development at the national, state, and local levels, there is intense competition among states, counties and municipalities of our nation to expand and/or locate businesses in their respective jurisdictions. This intense competition for new job creation has forced states and municipalities to provide incentives to businesses in order to remain competitive. Plattsmouth has been consistently hampered in its efforts to effectively compete in the business recruitment and expansion area. Even though the community has not had a shortage of opportunities, the city has been unable to respond quickly to those opportunities by not controlling available property or being able to raise sufficient capital from local sources to provide incentives for business location and expansion decisions that are tailored to meet the needs of our local community. Our ability to encourage business location and expansion has a direct impact not only upon the economic well being of our community and its residents but upon the State of Nebraska as well.

There is a need to empower Nebraska cities with the opportunity to provide assistance to business enterprises in their communities, whether for expansion of existing operations or the creation of new businesses, by use of the funds raised by local taxation when the voters in the municipality determine that it is in the best interest of the community to do so. The general strategy for this Economic Development Plan and the effort to be undertaken in accordance with the Local Option Municipal Economic Development Act (LB840, 1991-Section 18-2701, RRS1997, et.seq.) is to significantly enhance the city's involvement and leadership in future economic development efforts and to create new jobs in the area.

On June 3, 1991 Legislative Bill 840 was signed into law. This important piece of legislation authorizes incorporated cities and villages to appropriate and spend local sales and property tax revenues for approved economic development purposes. Consequently, this law allows Nebraska communities the opportunity to determine their own destiny by identifying shortcomings and providing, through self-determination those incentives necessary to businesses looking at their community. The economic development plan formulated by the city implementing this legislation and the mechanism for funding the plan is subject to a vote of the people of the city. The core of the plan of the LB840 process involves the formulation of a proposed plan (the "Plan") for a local economic development program. The Plan forms the foundation for the collection and expenditure of local tax revenues for economic development and the provisions of the plan become the basis under which the municipality's program operates.

## **Section II. Statement of Purpose Describing General Intent and Goals**

It is the intent of the City of Plattsmouth, Nebraska to implement an economic development program with the general purpose and goals of:

1. **Creating** high paying quality jobs by generating employment opportunities and expanding the available work force within the labor market of Plattsmouth and Cass County.
2. **Attracting** new capital investment to the community.
3. **Broadening** the tax base, alleviate the community's reliance on property taxes and provide economic diversification to ensure economic stability and vitality for the community of Plattsmouth and the surrounding area.

In order to have a successful economic development strategy and help the community grow by providing existing and prospective residents with local economic opportunities Plattsmouth must complete the following actions:

1. The City must diversify its economy by recruitment of new industries from outside and developing new businesses from inside the City. Plattsmouth must have a program that is a nurturing environment for small businesses and is a center for economic opportunity. This atmosphere can encourage people (entrepreneurs) with the skills and ideas to come to Plattsmouth to conduct business.
2. The City must have a marketing program. Business recruitment will continue to be an effective and important part of Plattsmouth's economic development strategy. In addition to recruitment, the city can open job opportunities by helping existing business in the city to expand their markets and compete more successfully. Finally,

the successful marketing of Plattsouth as a center for opportunity is important to the city's effort to expand its labor force and attract new residents.

3. The City must provide for the acquisition of industrial land and the provision of supporting infrastructure.

4. Economic Development needs capital; therefore, the city must expand access to venture and risk capital both inside and outside the community.

### **Section III. Eligible Economic Activities**

This Economic Development Plan provides that the proceeds of funds generated from the use of LB840 may be used to fund any project or program providing direct and indirect financial assistance to a qualifying business and the payment of related costs and expenses as allowed by Local Option Municipal Economic Development Act.

Priority activities include the purchase of industrial site(s) and obtaining options for the purchase of such real estate. Land to be purchased or optioned may be within or outside the corporate limits of the City of Plattsouth and will be identified through local analysis. If land outside the corporate limits is considered for purchase, close analysis will be made of the cost of extending infrastructure to the location and the burden on property owners of any special assessment districts that might be used to make such infrastructure improvements.

Furthermore, these funds may be used to provide the infrastructure to these sites or other sites to make them attractive to new or expanding businesses. Eligible infrastructure improvements, include but are not limited to the following:

1. Streets
2. Storm drainage
3. Water, sewer, gas, electric
4. Railroad extension and spurs
5. Telecommunications, cable, fiber optics, satellite service
6. Airport expansion and upgrades

Infrastructure improvements and costs may extend beyond the corporate limits of the City of Plattsouth. Priority should be given to improvements within the City's corporate limits, but, if extension of such improvements beyond the corporate

limits is necessary to achieve the goals of this program, such improvements may be funded. Only in exceptional circumstances, shall economic development (LB840) funds be used for improvements that extend beyond the City's zoning jurisdiction as it exists at the time.

The funds may also be used to construct facilities, structures, and/or appurtenances for new or proposed development or on a speculative basis to attract new business or industry. In addition, these facilities, structures and appurtenances are not required to be within the corporate limits of the City of Plattsmouth, but in only exceptional circumstances should the same extended outside the City's zoning jurisdiction as it exists as the time.

Eligible activities also include, but are not limited to the following:

1. Payments for salaries and support staff or contract staff to implement the program.
2. Job credits for full-time jobs created (2080 hrs/yr) to include grants that are subject to job creation performance.
3. Expenses related to business recruitment, promotional activities and related administrative expenses.
4. Expenses for locating a qualified business in the area.
5. Grants or agreements for job training.
6. Provision of technical assistance to businesses, such as marketing assistance, management counseling, preparing financial packages, engineering assistance.
7. Direct loans or grants to qualifying businesses for fixed assets or working capital or both; loan guarantees for qualifying business; grants for public works improvements which are essential to the location or expansion of, or the provision of new services by, a qualifying business; grants or loans for job training; the purchase of real estate, options for such purchases, and the renewal or extension of such options; the issuance of bonds as provided for in the Local Option Municipal Economic Development Act; and payments for salaries and support of city staff to implement the economic development program or the contracting of such to an outside entity.

The City recognizes that the attraction of new business and industry to a community, or the expansion of existing business or industry, takes place in an extremely competitive market place. In order to make Plattsmouth, Nebraska as competitive as possible in that market place and in the creation/retention of jobs

in the Plattsmouth area, the use of funds for any project or program for the purpose of providing direct or indirect financial assistance to a qualifying business and the payment of related costs and expenses allowed by Section 6 of LB840, shall be eligible activities under this Economic Development Plan.

The level of funding assistance is based, in part, on the number of jobs to be created/retained and the total amount of investment in the community. Funds from this program shall not be considered the sole funding source.

### **Eligible Types of Businesses**

1. A qualifying business shall mean any corporation, partnership, limited liability company or sole proprietorship, which derives its principal source of income from any of the following:

- A. The manufacture of articles of commerce;
- B. The conduct of research and development;
- C. The processing, storage, transport, or sale of goods or commodities which are sold or traded in interstate commerce;
- D. The sale of services in interstate commerce;
- E. Tourism related activities;
- F. Telecommunications activities;
- G. Headquarters facilities relating to eligible activities as listed in this section.

2. If a business, which would otherwise be a qualifying business, employs people and carries on activities in more than one city in Nebraska or will do so at any time during the first year following its application for participation in an economic development program, it shall be a qualifying business only if, in each such city, it maintains employment for the first two years of its participation in the economic development program at a level not less than its average employment in such city over the twelve month period preceding participation.

3. Any other business deemed as a qualifying business through future action of the Nebraska Legislature.

4. A qualifying business need not be located within the territorial boundaries of the city from which it is or will be receiving financial assistance, but only in exceptional circumstances be outside the City's zoning jurisdiction.

#### **Section IV. Source of Funding for Economic Development Program**

The Plattsmouth Economic Development Program will be funded by one-third of the city sales and use tax with a maximum amount of not more than four-tenths of one percent (.4 of 1%) of the City's assessed valuation to be appropriated in each year for the economic development program. That amount not appropriated shall be held in a reserved restricted to the Economic Development Fund of the City.

Plattsmouth may have a business opportunity or other economic development project that requires up-front funds that exceed the single year proceeds of the local option sales tax. In order to take maximum advantage of such an opportunity, Plattsmouth shall have the ability to issue bonds. These bonds are then retired by future sales tax receipts. Under LB732 (September 1993), a bill that made changes in LB840, communities may include this bonding authority within their economic development programs. Therefore, in this program the City Council may authorize the issuance of bonds to carry out the economic development program, following a public hearing.

A maximum of 10% of amounts collected for the Program may be used for administration. All remaining funds will be used for approved plan activities.

#### **Section V. Application Process for Financial Assistance to Businesses**

For a qualifying business to be considered for direct or indirect financial assistance under the Plattsmouth Economic Development Program an applicant must provide to the Program Administrator:

1. Necessary entity or personal financial information about the Applicant, including name, address, past experience, work history, and related information.
2. A detailed description of the proposed project which clearly states what assistance the business is requesting from the program, including evidence that the project qualifies for assistance under the Local Option Municipal Economic Development Act and is consistent with the goals of the Plattsmouth Economic Development Program.
3. A personal financial statement of owners or guarantors including documentation verifying assets and liabilities.
4. Income statement covering the last three years of business operation, or if a new business, personal income statements.
5. A business plan for the project and the company, including em-

ployment and financial projections.

6. Total project costs and financing requirements.
7. Evidence of private financing commitments for investors or lenders.
8. A review of key management and employees and their experience as related to the proposed project.
9. Past three year tax returns.
10. Other information as requested.

Upon receipt of all required information the Program Administrator will conduct a verification process. Minimum verification will include a credit check and contact of business references. Additional forms of verification of the information may be required. The applicant will be responsible for furnishing verification of significant financial assets.

Additional information, as necessary, to determine the economic viability of the proposed project(s) may be requested by the Program Administrator prior to recommendation to the City Council and/or by the City Council prior to final action.

The Program Administrator will review applications and requests for direct or indirect financial assistance in the order in which they are received. Application review and approval, or disapproval, will be based on project feasibility as determined by review of the applicant's business plan and other requested information by the Program Administrator and the potential future economic benefit to the community of Plattsmouth and Cass County. When considering an application and its merits, the Program Administrator may consult with the Executive Director of the Cass County Nebraska Economic Development Council, and other professional economic developers, including staff members from the Nebraska Department of Economic Development.

Program Administrator may use any or all of the following methods to verify the information provided by the applicant.

1. Credit check
2. Dunn & Bradstreet Report
3. Examine internal records
4. Other activities as deemed necessary

## **Completed Application Review Process**

Based on the information obtained from the business which is listed and through personal discussions with the potential applicant and business, a preliminary determination is made by the Program Administrator as to whether the:

1. Applicant is eligible.
2. Activities are eligible and comply with eligible business and job creation/retention requirements.
3. Applicant or business has no legal actions underway that may significantly impact its capacity.
4. Business complies with the provisions of the application guidelines.

Upon a favorable preliminary determination by the Program Administrator, the terms and conditions of assistance will be negotiated with the applicant. Upon completion of negotiations, the project will be submitted to an Application Review Committee that will be composed of five members to be appointed by the Mayor with approval of the City Council. The ARC will have the following make up:

1. Two (2) members from the financial services and/or accounting field.
2. Three (3) members of the community at large.

Term of office for ARC members shall be three (3) years and/or until their successors are appointed and qualified. Initially, two members shall be appointed to a term of one year, two members shall be appointed to a term of one year, two members shall be appointed to a term of two years and one member shall be appointed to a term of three years.

The ARC will make a recommendation to the Program Administrator that:

1. The project will be approved.
2. The project will be disapproved.
3. The project will be renegotiated.

Approval or disapproval will be based on whether the negotiations show (1) that funding is appropriate for a business meeting the job creation/retention and eligible business criteria, and (2) that the type or level of assistance will not unduly enrich the business or be unreasonable in relation to the reasons to achieve public benefit. The Program Administrator and the ARC will review the application



and make recommendations to the City Council. The City Council will have final decision on all projects to be assisted and all allocations of funds. The ARC will be responsible for establishing criteria, determining projects, and applying cost benefit analysis.

Application Review Committee Members shall disclose for the public record any personal and/or professional financial interest(s) in the project which is the subject of an application for economic development assistance. Any member who makes such disclosure shall not participate in discussion and review of the application, nor shall such member vote on any recommendation for further negotiations or recommendations to the City Council.

The Program Administrator and City Attorney, or outside counsel engaged by the City in the event of a conflict of interest for the City Attorney to represent the City, shall be present at all meetings of the Application Review Committee.

### **Process to Insure Confidentiality of Business Information Received**

In the process of gathering information about a qualifying business, the city may receive information about the businesses that is confidential which, if released, could cause harm to the business or give unfair advantage to competitors. State law authorizes cities and other public entities to maintain the confidentiality of business records that come into their possession.

The Program Administrator will be responsible for development of procedures to insure the confidentiality of business information received from applicants for financial assistance. These procedures will be subject to approval by the Plattsburgh City Council.

To protect the businesses applying for assistance:

1. The adoption of an ordinance which makes such information confidential and prohibits unauthorized disclosure.
2. A restriction on the number of people with access to the files with the Program Administrator primarily responsible for their safe keeping.
3. Requiring personnel that is involved in the program review to sign statements of confidentiality regarding all personal and private submittals by qualified businesses.

### **Administration System of Economic Development**

A description of the administration of the plan follows. Additional responsibilities as well as positions may be needed to carry out the program during the course of

the Program as dictated by economic conditions.

The Plattsmouth City Council designates the City Administrator as the municipal employee with the responsibility for the administration of the program and that designee will also serve as an ex-officio, but non-voting, member of the Citizen Advisory Review Committee. The responsibility and duties of the City Administrator would include:

1. Administration of the Program.
2. Serve as an ex-officio but non-voting member of the Citizen Advisory Review Committee.
3. Provide the Citizen Advisory Review Committee with necessary information and advise the Committee on the program.
4. Track employment figures for participating businesses for two years if businesses employ persons in other Nebraska communities.
5. Will review qualifying businesses on a regular basis to ensure that qualifying businesses are following the appropriate laws and regulations.
6. Coordinate with the Citizen Advisory Review Committee.
7. Maintain records and files as required by ordinance and/or statute.

### **Process to Assure Laws and Regulations are being met by the City and Participating Businesses**

The City of Plattsmouth will ensure that all applicable laws and requirements are met by the City and the qualifying businesses that receive assistance.

The administration of an LB840 program involves a compact with the citizens of the city. Plattsmouth residents are agreeing to pay a sales tax in return for an investment in the future of the community. The residents have a right to review the effectiveness of that investment through a separate voice and authority. Therefore, the ordinance establishing the program shall provide for the creation of a Citizen Advisory Review Committee. The duties of the Citizen Advisory Review Committee are as follows:

1. Review the functioning and progress of the economic development program at regular meetings of the advisory board, as set forth in the ordinance, and advise the governing body of the munic-

ipality with regard to the Program.

2. Report to the city council on its findings and suggestions at a public hearing called for that purpose, at least once every six-month period after the effective date of the ordinance.

The members shall be appointed by the Mayor and approved by the City Council, and consist of five to ten members. All members shall be registered voters of the city, reside within the city's zoning jurisdiction, own, operate or be employed by a business located in Plattsmouth, Nebraska area. No member shall be an elected or compensated appointed city official, an employee of the city, a participant in a decision-making position regarding expenditures of the Program funds, an official or employee of any financial institution participating directly in the Program.

Except in circumstances when the City Attorney has a conflict of interest, the City Attorney will be responsible for keeping the City informed of any relevant changes in the law that could affect the program. The City Attorney will review all contracts, official documents, land transactions, and other official actions related to the economic development program to ensure compliance with existing law. It is incumbent upon those involved in the application of this Plan to seek advice and input from the City Attorney in regard to proposed projects, conflicts of interest, transactions and all matters related to the use of the Plan.

Final decisions on acquisition and sales of any land will be made by the City Council. The proceeds from the future sale of such land or reimbursement of any awarded funds would be returned to the City's Economic Development Fund for additional land purchase or for reuse for any activities eligible in the economic development program only.

#### SECTION 2-1202 MEMBERS; VACANCIES; MEETINGS

There is created, in and for the City, a citizen advisory review committee as authorized by the Local Option Municipal Economic Development Act. The citizen advisory review committee shall be composed of five members, two (2) of whom shall have experience in the financial services and/or accounting field and three (3) of whom shall come from the community at large. No member of the committee shall be an elected or appointed city official, an employee of the City, 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 such Economic Development program. The members of the citizen advisory review committee shall be appointed by the mayor, with the approval of the City Council. Vacancies occurring in the membership of the citizen advisory review committee, other than by reason of the expiration of terms, shall be filled by the Mayor by and with the approval of the Council. Any member of the committee may be removed from office by the Mayor,

by and with the approval of the Council. The members of the citizen advisory review committee shall serve five-year terms. The members of the citizen advisory review committee shall elect its chairperson from its members and shall create and fill such other offices as it may determine necessary. The term of the chairperson shall be one year, with eligibility for reelection. The citizens advisory review committee shall meet at least two times per year to review the functioning and progress of the Economic Development Program of the City and to advise the City Council with regard to the program. Special meetings of the committee shall be held whenever called by the mayor or the chairperson of the committee. The committee shall report to the City Council in a public hearing called for that purpose, held at least once in every six-month period, regarding its findings and suggestions.

#### SECTION 2-1203 DISCLOSURE OF CONFIDENTIAL INFORMATION

All trade secrets, academic and scientific research work which is in progress and unpublished or other proprietary or commercial information of a qualifying business participating in the Economic Development Program of the City which, if released, would give advantage to business competitors and serve no public purpose shall be confidential. The members of the Application Review Committee are authorized to have access to such confidential information. The mayor and City Council shall designate by resolution other persons who are authorized to have access to such confidential business information. Any person who knowingly releases such confidential information other than to persons who are authorized to have access to such information in accordance with the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be subject to a maximum imprisonment of three months in the county jail or a fine of \$500.00 or both.

#### SECTION 2-1204: MAYOR; DUTIES

The mayor shall be responsible for the administration of the Economic Development Program of the City, shall be an ex-officio member of the committee, and shall be responsible for assisting the committee and providing it with necessary information and advice on the Economic Development Program.

## ARTICLE XIII - PENAL PROVISION

### SECTION 2-1301: 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 dollars for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.



## ARTICLE XIV – BOARD OF ADJUSTMENT

### SECTION 2-1401 BOARD OF ADJUSTMENT; CREATED

The board 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. Appointments shall be made by the Mayor with the consent of a majority of the City Council.

### SECTION 2-1402 BOARD OF ADJUSTMENT; QUALIFICATION OF MEMBERS

One member of the Board shall be appointed from the members of the Planning Commission, one member of the Board shall be appointed who resides in the extraterritorial zoning jurisdiction of the City, and the remaining members of the Board shall be appointed from residents of the City.

### SECTION 2-1403 BOARD OF ADJUSTMENT; TERM OF OFFICE AND REMOVAL

The term of office of members of the Board shall be three years and until their successors are appointed and qualified, unless sooner removed. The term of the member appointed from the Planning Commission shall terminate upon the loss of membership on the Planning Commission. All members, upon written charges and after a public hearing before the City Council, may be removed by the Mayor with the consent of the City Council, for inefficiency, neglect of duty or malfeasance in office, or other good and sufficient cause.

### SECTION 2-1404 BOARD OF ADJUSTMENT; APPOINTMENT OF MEMBERS

Except for the appointment of members to the first Board, terms shall expire and appointments shall be made at the first meeting of the City Council in December. The members of the first Board will serve as follows: the member appointed from the Planning Commission shall serve until the first meeting of the City Council in December 2004, after which successors shall serve three year terms; two members who are residents of the City shall serve until the first meeting of the City Council in December 2005, after which successors shall serve three year terms; and one member who is a resident of the City and the member who is a resident of the extraterritorial zoning jurisdiction of the City shall serve until the first meeting of the City Council in December 2006, after which successors shall serve three year terms. Upon the expiration of an appointment, new members may be appointed or existing members may be reappointed. Vacancies prior to the expiration of a term shall be filled by appointment for the unexpired term.

## SECTION 2-1405 BOARD OF ADJUSTMENT; OATH; COMPENSATION

Before entering upon the duties of the Board, each member shall take an oath of office, to be filed with the City Clerk, to faithfully perform the duties of office and not in any manner be actuated or influenced by personal or political motivation. The members of the board shall serve without compensation.

## SECTION 2-1406 BOARD OF ADJUSTMENT; ORGANIZATION AND OFFICERS

At the first meeting in December of each year, the Board shall organize by selecting from their number a Chair and Secretary, except no member shall serve as both Chair and Secretary. The Secretary to keep full and correct records of all meetings showing the vote of each member on each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record and filed with the City Clerk.

## SECTION 2-1407 BOARD OF ADJUSTMENT; MEETINGS

Board shall meet at the call of the chair and at such other times as the Board may determine. The Chair, or in the Chair's absence the acting Chair, may administer oaths and compel the attendance of witnesses. A majority of the Board shall constitute a quorum for the transaction of business and a majority vote of the total membership shall be required to pass any motion or resolution.

## SECTION 2-1408 BOARD OF ADJUSTMENT; DUTIES

The Board shall have the following duties. In carrying out these duties, as they relate to reversing any order, requirement, decision or determination of any such administrative official, or to deciding in favor of the applicant on any matter upon which it is required to pass under any such regulation or to affect any variation in such regulation, the concurring vote of four members of the Board is required.

1. To adopt rules in accordance with any provisions of any ordinance adopted pursuant to Neb. Rev. Stat. §§ 19-901 to 19-914.
2. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official or agency based or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures.
3. To hear and decide, in accordance with the provisions of any zoning regulations, requests for an interpretation of any map, or for decisions upon other special questions upon which the Board is authorized by any such regulation to pass.



4. To grant a variance to the zoning regulations where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property. Such variance from such strict application so as to relieve such difficulties or hardship may be granted if it will not result in substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution.

Provided, however, that no such variance shall be authorized by the Board unless it finds that (a) the strict application of the zoning regulation would produce undue hardship; (b) the hardship is not shared generally by other properties in the same zoning district in the same vicinity; (c) the authorization of such variance will not be a substantial detriment to adjacent property and the character of the district will not be changed by granting a variance; and (d) the granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

Provided, further, that 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 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. In exercising these powers the Board may, in conformity with state law, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that extent shall have all powers of the officer from whom the appeal is taken.

(5) To carry out any other duty prescribed by state statute.