

CHAPTER 2 – BOARDS AND PUBLIC FACILITIES

ARTICLE 1 – BOARD OF HEALTH

- SECTION 2-101: MEMBERS; TERMS**
- SECTION 2-102: MEETINGS; OFFICERS**
- SECTION 2-103: DUTIES**
- SECTION 2-104: ENFORCEMENT OFFICIAL**
- SECTION 2-105: STATE RULES**
- SECTION 2-106: COUNTY HEALTH BOARD**

ARTICLE 2 – PARK COMMITTEE

- SECTION 2-201: PURPOSE**
- SECTION 2-202: MEMBERS; TERMS**
- SECTION 2-203: OFFICERS; MEETINGS**
- SECTION 2-204: DUTIES**

ARTICLE 3 – ENHANCEMENT COMMITTEE

- SECTION 2-301: PURPOSE**
- SECTION 2-302: MEMBERS; TERMS**
- SECTION 2-303: OFFICERS; MEETINGS**
- SECTION 2-304: DUTIES AND POWERS**

ARTICLE 4 – PLANNING COMMISSION

- SECTION 2-401: MEMBERS**
- SECTION 2-402: ALTERNATE MEMBER**
- SECTION 2-403: TERMS; VACANCIES**
- SECTION 2-404: OFFICERS; MEETINGS**
- SECTION 2-405: FUNDING**
- SECTION 2-406: POWERS AND DUTIES; APPEAL**

ARTICLE 5 – BOARD OF ADJUSTMENT

- SECTION 2-501: CREATION; POWERS AND DUTIES**
- SECTION 2-502: MEMBERS; TERMS; REMOVAL; VACANCIES**
- SECTION 2-503: RULES AND REGULATIONS**
- SECTION 2-504: APPEALS TO BOARD**

ARTICLE 6 – CHRISTMAS IN CALHOUN COMMITTEE

- SECTION 2-601: PURPOSE**
- SECTION 2-602: MEMBERS; TERMS**
- SECTION 2-603: OFFICERS; MEETINGS**
- SECTION 2-604: DUTIES AND POWERS**

ARTICLE 7 – TREE BOARD

- SECTION 2-701: CREATION AND ESTABLISHMENT**
- SECTION 2-702: TERMS; VACANCY; COMPENSATION**
- SECTION 2-703: DUTIES AND RESPONSIBILITIES**
- SECTION 2-704: OPERATION**

SECTION 2-705: TREES; DEFINITIONS
SECTION 2-706: TREES; STREET TREE SPECIES TO BE PLANTED
SECTION 2-707: TREES; SPACING
SECTION 2-708: TREES; PLANTING DISTANCES
SECTION 2-709: TREES; REGULATIONS IN CHAPTER 6
SECTION 2-710: TREES; OVERHANGING BRANCHES
SECTION 2-711: TREES; UTILITIES
SECTION 2-712: TREES; PUBLIC TREE CARE
SECTION 2-713: TREES; CONSENT OF PROPERTY OWNER
SECTION 2-714: TREES; TREE TOPPING; EXCEPTIONS
SECTION 2-715: TREES; REMOVAL ON PRIVATE PROPERTY
SECTION 2-716: TREES; REMOVAL OF STUMPS
SECTION 2-717: INTERFERENCE WITH TREE BOARD
SECTION 2-718: REVIEW BY CITY COUNCIL

ARTICLE 8 – PENAL PROVISION

SECTION 2-801: VIOLATION; PENALTY

CHAPTER 2 – BOARDS AND PUBLIC FACILITIES

Article 1 – Board of Health

(Neb. Rev. Stat. §17-121)

SECTION 2-101: MEMBERS; TERMS

A. The City Council shall appoint a Board of Health consisting of four members: the mayor, who shall serve as chairman; the president of the City Council; and two other members. One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the board's medical advisor. In the event no physician resides within the city, the mayor shall appoint a citizen at large to serve instead. If the city has a contract with the Washington County Sheriff for law enforcement services, the mayor may appoint the county sheriff to serve as secretary and quarantine officer.

B. The members of the Board of Health, other than the mayor, president of the council, and sheriff, if appointed, shall serve terms of one year and may be reappointed. No member of the Board of Health shall hold more than one board position. The members of the board shall serve without compensation. The Board of Health shall be funded by the City Council from time to time out of the general fund.

SECTION 2-102: MEETINGS; OFFICERS

The Board of Health shall meet at such times as the City Council may designate. The board shall elect officers at its meeting after appointments are regularly considered by the council and, if necessary, select a member to serve as secretary. A majority of the board shall constitute a quorum for the purpose of doing business. 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. Special meetings may be held upon the call of the chairman or any two board members.

SECTION 2-103: DUTIES

It shall be the duty of the Board of Health to enact rules and regulations, which shall have

the full force and effect of law to safeguard the health of the people of the 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 shall actively enforce all state laws and city ordinances 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 City Council may direct. The board shall be responsible for making such reports, prescribing such penalties, and performing such other duties as the council may designate from time to time. All actions of the Board of Health shall be subject to the review and supervision of the council.

SECTION 2-104: ENFORCEMENT OFFICIAL

The sheriff, if appointed as the quarantine officer, shall be the chief health officer of the city. It shall then be his or her duty to notify the City Council and the Board of Health of health nuisances within the city and its zoning jurisdiction.

SECTION 2-105: STATE RULES

The publication *Rules and Regulations Relating to Public Health*, Department of Health of the State of Nebraska, is hereby incorporated by reference when the same is applicable to the city, in its present form and as it may hereafter be amended. (Neb. Rev. Stat. §18-132)

SECTION 2-106: COUNTY HEALTH BOARD

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

Article 2 – Park Committee

SECTION 2-201: PURPOSE

The park committee serves as an advisory body to the mayor and City Council. They make recommendations on all park-related concerns and issues. The committee is established by the mayor and council for the purpose of planning, promoting and maintaining a diverse park system for the residents, regardless of age. Functions of the committee include receiving resident input, conducting surveys, recommending funding strategies, evaluating and recommending capital improvements for the new and existing park facilities. (Neb. Rev. Stat. §§17-948, 17-949, 17-951, 17-952)

SECTION 2-202: MEMBERS; TERMS

Upon recommendation of the mayor, the City Council shall appoint the Park Committee, which shall consist of no fewer than six members, with no fewer than three of the members being residents of the city. No more than three of the members may be drawn from persons who are nonresidents of the city but do own real estate within the city and have an interest in parks and recreation. Only city residents shall be voting members and those who are not city residents will be non-voting members. Each member shall serve a three-year term of office and may be reappointed. The members shall serve without compensation and may be required, at the discretion of the City Council, to give a bond in a sum set by resolution of the council, conditioned upon the faithful performance of their duties. Members may be removed by the mayor with the consent of the council president. (Neb. Rev. Stat. §17-952)

SECTION 2-203: OFFICERS; MEETINGS

At the time of the Park Committee's first meeting in February each year, the members

shall organize by selecting from their membership a president and secretary. No member of the committee shall serve in the capacity of both president and secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the city clerk, where they shall be available for public inspection during office hours. A majority of the committee members shall constitute a quorum for the transaction of business. Special meetings may be held upon the call of the president or any two members. The committee shall hold regular monthly meetings on the first Thursday of each month from February to October at 7:00 p.m. (Neb. Rev. Stat. §17-952) (Am. Ord. No. 604, 3/17/08)

SECTION 2-204: DUTIES

It shall be the duty and responsibility of the Park Committee to advise the mayor and council on all matters concerning parks and recreation:

- A. Recommending locations of sites for parks and recreational areas;
- B. Recommending improvements to be undertaken;
- C. Reporting annually on the status of the park and recreational facilities;
- D. Studying, investigating, counseling and updating annually a written plan for the care and preservation of trees and shrubs in parks, along streets and in other public areas;
- E. Applying for grants affiliated with city parks and park activities;
- F. Making reports and performing such other duties as the council may designate from time to time.

Article 3 – Enhancement Committee

SECTION 2-301: PURPOSE

The Enhancement Committee was created in July 2000 for the enhancement and beautification of the city. The primary purpose of the committee shall be to maintain and improve the appearance of the city and community.

SECTION 2-302: MEMBERS; TERMS

A. The Enhancement Committee shall consist of a maximum of eight voting members who shall be residents within the Fort Calhoun School District or have other committed associations to the community. The committee will make recommendations to the mayor for new appointees. The mayor has the option of submitting the recommendations from the committee or submitting other names for approval of the City Council.

B. Persons appointed to the committee shall be persons who possess an understanding of territorial and state history, who have demonstrated interest in undertaking volunteer assignments on behalf of the city, and who are capable of planning, undertaking and completing specific tasks on behalf of the people of this community.

C. The term of each voting committee member shall be three years. All members shall be eligible for reappointment. Members shall hold voting membership on the committee during the term for which they were appointed, except that members may be removed by and at the pleasure of the authority which appointed them. Any vacancy on the committee shall be promptly filled by the appointing authority. An appointment to fill a vacancy during an unexpired term shall be for the period of the unexpired term.

D. Committee members shall serve without compensation but shall be reimbursed their actual and necessary expenses as determined by the City Council.

SECTION 2-303: OFFICERS; MEETINGS

A. Regular meetings of the committee shall be held on the last Monday of each month at city hall or other designated and posted location within the business district of the city, if needed. Notice of meetings shall be posted at city hall and at least two other locations within the city in accordance with the Nebraska Open Meetings Act (Neb. Rev. Stat. §84-1411). The agenda shall not be altered later than 24 hours before the scheduled meeting.

B. A chair and a vice-chair shall be elected annually by majority vote of the voting members of the committee. In the event of a vacancy in the office of chair or vice-chair caused by such matters as death, incapacity or unwillingness to serve, or resignation from office, a special election to replace such officers shall be conducted as soon thereafter as possible. The chair, or in his or her absence the vice-chair, shall serve to chair all meetings, to pass upon all matters of parliamentary procedure, to conduct meetings in accordance with the Nebraska Open Meetings Act (Neb. Rev. Stat. Ch. 84, Art. 14), and to serve as liaison with the city. The chair shall appoint a secretary to keep the minutes of all meetings.

SECTION 2-304: DUTIES AND POWERS

A. Except as specifically authorized by appropriate action of the City Council, neither the committee nor any of its members shall have authority to bind the city to any contract, agreement or understanding of any kind nor to assume any monetary obligation or indebtedness.

B. The members of this committee are empowered to provide information to, and initiate formal proposals to the committee (which, in turn, may recommend all or certain of such proposals to the Planning Commission and the Park Board), dealing with such matters as (1) regulating the planting and protection of shade trees and or other decorative vegetation in and upon the streets, sidewalks and parks of the city; (2) the regulation and removal of obstructions from and upon the same; (3) the regulation of weeds, certain grasses and other useless vegetation and litter upon and within the same; (4) revision and upgrading of the Comprehensive Development Plan of the city with emphasis upon the preservation, protection and enhancement of historic buildings, places, sites and districts.

C. It shall be the duty of each member of the committee to participate with the other members in proposing, preparing and adopting a comprehensive plan for appropriate celebrations representative of the community's awareness of its heritage. Such plan shall include recommendations concerning facilities necessary to implement any program of celebration that is planned and shall be submitted to the City Council.

D. The committee, when directed by the council, may coordinate and cooperate with national, regional, state and other local organizations, authorities and groups of similar purpose in the planning and promotion of commemorative events.

E. When approved by the council, the committee may engage in fundraising, including revenue-earning enterprises, activities, and solicitation of grants, gifts and donations, if any such contemplated action is lawful, generally and within the Internal Revenue Code. All moneys or pledges of money so received shall be kept and maintained by the city in a fund and shall be invested and used solely for the purposes intended.

F. The committee shall promote public education in the schools and generally

promote awareness concerning the Lewis and Clark Expedition and other historic events which have occurred in this community.

Article 4 – Planning Commission

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

SECTION 2-401: MEMBERS

The Planning Commission shall consist of five members who shall represent, insofar as is possible, the different professions or occupations in the city and shall be appointed by the mayor by and with the approval of a majority vote of the City Council. Two of the regular members may be residents of the area over which the city is authorized to exercise extraterritorial zoning and subdivision regulation. When there is a sufficient number of residents in the area over which the city exercises extraterritorial zoning and subdivision regulation, one regular member of the commission shall be a resident from such area. If it is determined by the City Council 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 500 residents. All regular members of the commission shall serve without compensation and shall hold no other city office except when appointed to serve on the Board of Adjustment as provided in Neb. Rev. Stat. §19-908.

SECTION 2-402: ALTERNATE MEMBER

The mayor, with the approval of a majority vote of the City Council, may by ordinance provide for the appointment of one alternate member to the commission, who shall serve without compensation and shall hold no other city office. The term of the alternate member shall be three years and he or she shall hold office until his or her successor is appointed and approved. The alternate member may be removed from office in the same manner as a regular member. If the alternate member position becomes vacant other than through the expiration of the term, the vacancy shall be filled for the unexpired portion of the term by the mayor with the approval of a majority of the City Council. The alternate member may attend any meeting and may serve as a voting and participating member of the commission at any time when less than the full number of regular commission members is present and capable of voting.

SECTION 2-403: 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 City Council, be removed by the mayor with the consent of a majority vote of the council members for inefficiency, neglect of duty, malfeasance in office, or other good and sufficient cause. Vacancies occurring other than through the expiration of term shall be filled for the unexpired portion of the term by the mayor.

SECTION 2-404: 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 City Council 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 2-405: FUNDING

The City Council 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 council; and no expenditures nor agreements for expenditures shall be valid in excess of such amounts.

SECTION 2-406: 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 city, including any areas outside its boundaries which in the commission's judgment bear relation to the planning of such city 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 City Council shall not take final action on matters relating to the Comprehensive Development Plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning until it has received the recommendation of the Planning Commission. The City Council 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 City Council has designated an agent by ordinance pursuant to Neb. Rev. Stat. §19-916.

B. The commission may, with the consent of the City Council, in its own name (1) make and enter into contracts with public or private bodies, (2) receive contributions, bequests, gifts, or grant funds from public or private sources, (3) expend the funds appropriated to it by the city, (4) employ agents and employees, and (5) acquire, hold, and dispose of property. 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 City Council 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 City Council may choose to retain for itself the power to grant conditional uses or special exceptions for those classifications of uses specified in the zoning ordinance. The council may exercise 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 City Council regarding a conditional use or special exception shall be made to the District Court.

Article 5 – Board of Adjustment

SECTION 2-501: CREATION; POWERS AND DUTIES

A Board of Adjustment is hereby established in strict conformity with Chapter 19, Article 9 of the Nebraska Revised Statutes and shall have all of the powers and perform all of the duties set forth therein.

SECTION 2-502: MEMBERS; TERMS; REMOVAL; VACANCIES

Board of Adjustment members, the terms of their appointment, the grounds and procedures for removal, and the filling of vacancies shall be governed by Neb. Rev. Stat. §19-908.

SECTION 2-503: RULES AND REGULATIONS

The procedural rules and regulations governing the operation of the Board of Adjustment shall be those set forth in Neb. Rev. Stat. §19-907 through 19-912. The Board of Adjustment may also adopt any additional rules and regulations as may facilitate its operation.

SECTION 2-504: APPEALS TO BOARD

A. Further, and without limiting the paramount nature of the foregoing, the Board of Appeals shall have the following powers and duties:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;
2. To hear and decide in accordance with the provisions of any zoning regulation, requests for interpretation of any map; and
3. To grant or deny variances, explicitly following the provisions of Neb. Rev. Stat. §19-910(3).

B. Within the scope of the foregoing, all questions concerning interpretation or enforcement of the Zoning and Subdivision Chapters of the Land Development Ordinance of the City of Fort Calhoun (Ord. No. 454, 1/15/96) shall first be presented to the Planning Commission of this city and any appeals from its decisions shall be made to the Board of Adjustment. Similarly, in the event it is claimed that the true intent and meaning of any building codes adopted by reference in the municipal code of this city have been wrongfully interpreted by the building inspector or other administrative official or agency, the person so claiming may appeal to the Board of Adjustment through the office of the city clerk by following the procedure for appeals as set forth in Chapter 12, Section 8(b) of the zoning chapter of the Land Development Ordinance of this city. Appeals from decisions of the Board of Adjustment shall be filed with the District Court of Washington County.

Article 6 – Christmas in Calhoun Committee

SECTION 2-601: PURPOSE

The Christmas in Calhoun Committee was created in 2012 to give back to the community around holiday time. The primary purpose of this committee is to bring the community together for one day to benefit the children of Fort Calhoun and to donate to the local charities.

SECTION 2-602: MEMBERS; TERMS

A. The Christmas in Calhoun Committee shall consist of a maximum eight voting members who shall be residents within the Fort Calhoun School District or have other committed associations to the community. The committee will make recommendations to the mayor for new appointments. The mayor has the option of submitting the recommendations from the committee or submitting other names for approval of the City Council.

B. Persons appointed to the committee shall be persons who possess an understanding of territorial and state history, who have demonstrated interest in undertaking volunteer assignments on behalf of the city, and who are capable of planning, undertaking and completing specific tasks on behalf of the people of this community.

C. The term of each voting committee member shall be three years. All members shall be eligible for reappointment. Members shall hold voting membership on the committee during the terms for which they are appointed, except that members may be removed by and at the pleasure of the authority which appointed them. Any vacancy on the committee shall be promptly filled by the appointing authority. An appointment to fill a vacancy during an unexpired term shall be for the period of the unexpired term.

D. Committee members shall serve without compensation but shall be reimbursed their actual and necessary expenses as determined by the City Council.

SECTION 2-603: OFFICERS; MEETINGS

A. Regular meetings of the committee shall be held on the first Tuesday of each month, August through January, at the city hall or other designated and posted location within the business district, if needed. Notice of meetings shall be posted at city hall and at least two other locations within the city in accordance with the Nebraska Open Meetings Act (Neb. Rev. Stat. §84-1411). The agenda shall not be altered later than 24 hours before the scheduled meeting.

B. A chair and a vice-chair shall be elected annually by majority vote of the voting members of the committee. In the event of a vacancy in the office of chair or vice-chair caused by such matters as death, incapacity or unwillingness to serve, or resignation from office, a special election to replace such officers shall be conducted as soon thereafter as possible. The chair, or in his or her absence the vice-chair, shall serve to chair all meetings, to pass upon all matters of parliamentary procedure, to conduct meetings in accordance with the Nebraska Open Meetings Act (Neb. Rev. Stat. Ch. 84, Art. 14), and to serve as liaison with the city. The chair shall appoint a secretary to keep the minutes of all meetings.

SECTION 2-604: DUTIES AND POWERS

A. Except as specifically authorized by appropriate action of the City Council, neither the committee nor any of its members shall have authority to bind the city to any contract, agreement or understanding of any kind not to assume any monetary obligation

or indebtedness.

B. The members of this committee provide the community with two annual events: The tree lighting and Christmas in Calhoun. The tree lighting is held annually on the Saturday following Thanksgiving. This event brings together the community and starts the Christmas season by lighting the Christmas tree in the gazebo and the town. Christmas in Calhoun is held annually on the second Saturday of December. All the businesses in town get together and have events for the children of the community. It also brings in canned goods for our local community food pantry.

C. The committee, when directed by the City Council, may coordinate and cooperate with national, regional, state and other local organizations, authorities and groups of similar purpose in the planning and promotion of commemorative events.

D. When approved by the City Council, the committee may engage in fundraising, including revenue-earning enterprises, activities, and solicitation of grants, gifts and donations, if any such contemplated action is lawful, generally and within the Internal Revenue Code. All moneys or pledges of money so received shall be kept and maintained by the city in a fund and shall be invested and used solely for the purposes intended.

Article 7 – Tree Board

SECTION 2-701: CREATION AND ESTABLISHMENT

The City Council may create and establish a Tree Board for the city. If created, it shall consist of five permanent members and as many advisory members as the council determines necessary. The permanent members shall be citizens and residents of this city and the advisory members shall be residents of Washington County. Such permanent and advisory members shall be appointed by the mayor with the approval of the council. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed by the mayor with the approval of the council for the unexpired term.

SECTION 2-702: TERMS; VACANCY; COMPENSATION

The terms of the five persons to be appointed by the mayor with the approval of the City Council shall be three years with staggered terms, so that two members' terms shall expire every two years. The advisory members shall have no terms and shall serve at the pleasure of the mayor and council. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term. Members of the Tree Board shall serve without compensation.

SECTION 2-703: DUTIES AND RESPONSIBILITIES

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

SECTION 2-704: OPERATION

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

the transaction of business.

SECTION 2-705: TREES; DEFINITIONS

"Nuisance" or "obstruction" is hereby defined as any tree or shrub growing upon or near the lot line or upon public ground, including the public sidewalk space, and interfering with the use or construction of any public improvements.

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

"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 city.

SECTION 2-706: TREES; STREET TREE SPECIES TO BE PLANTED

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

SECTION 2-707: TREES; SPACING

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

SECTION 2-708: TREES; PLANTING DISTANCES

A. 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 and 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.

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

SECTION 2-709: TREES; REGULATIONS IN CHAPTER 6

Further regulations regarding trees as they affect public ways and property are provided in Sections 6-106 (Sidewalk Space), 6-107 (Obstructions), and 6-108 (Overhanging Branches).

SECTION 2-710: TREES; OVERHANGING BRANCHES

Every owner of any tree overhanging any street or right of way within the city 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 at least 8 feet above the surface of any sidewalk and at least 14 feet above the surface of any street. Also see Section 6-108.

SECTION 2-711: TREES; UTILITIES

No street trees other than those species listed as small trees in the tree list 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 2-712: TREES; PUBLIC TREE CARE

The city shall have the right to plant, subject to Section 2-710 (Overhanging Branches) herein, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and location of said trees is in accordance with this article.

SECTION 2-713: TREES; CONSENT OF PROPERTY OWNER

The Tree Board shall plant no trees on public right of way without the consent of the adjacent property owners. Such consent shall be in writing and shall be maintained as part of the official Tree Board records.

SECTION 2-714: TREES; TREE TOPPING; EXCEPTIONS

It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or other tree on public property. "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 so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this article at the determination of the Tree Board.

SECTION 2-715: TREES; REMOVAL ON PRIVATE PROPERTY

A. All trees that are in a diseased, dying or dead condition are declared to be a public nuisance and shall be removed by the property owner from the private property on which they are located. For the purpose of carrying out the provisions of this section, the Tree Board shall have the authority to enter on private property to inspect the trees thereon. In the event that the trees are diseased or dead, notice shall be given to the owner of the property by mail or personal service and such notice shall allow the said owner 60 days to remove the said tree or trees. In the event that the owner is a non-resident, notice shall be made by publication in a newspaper of general circulation in the city or by certified mail if the name and address are known.

B. The person charged with the removal may enter into an agreement with the city that such work be accomplished by the city and the expense shall be declared to be a lien upon such property from the time the same becomes due until paid. If the owner fails, neglects or refuses to enter into such an agreement or to remove the trees, the Tree Board may enter upon the property and proceed to direct the removal of the trees and the cost thereof shall be chargeable to the property owner. If the owner fails to reimburse the city after being properly billed, the costs shall be assessed against the property and certified by the city clerk to the county treasurer to be collected in the manner prescribed by law.

C. In the event the property owner is a nonresident of the county in which the property lies, the city 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 nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

SECTION 2-716: 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 2-717: INTERFERENCE WITH TREE BOARD

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

SECTION 2-718: REVIEW BY CITY COUNCIL

The City Council shall have the right to review the conduct, acts and decisions of the Tree Board. Any person may appeal any ruling or order of the Tree Board to the council, which may hear the matter and make a final decision.

Article 8 – Penal Provision

SECTION 2-801: 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.