

CHAPTER 2 – BOARDS AND PUBLIC FACILITIES

ARTICLE 1 – LIBRARY BOARD

- SECTION 2-101: LIBRARY; OPERATION AND FUNDING**
- SECTION 2-102: MEMBERS; TERMS**
- SECTION 2-103: MEETINGS; OFFICERS**
- SECTION 2-104: POWERS AND DUTIES**
- SECTION 2-105: ANNUAL REPORT TO VILLAGE BOARD; BUDGET; EXPENDITURES**
- SECTION 2-106: REAL ESTATE; SALE AND CONVEYANCE**
- SECTION 2-107: GROUNDS AND BUILDING**
- SECTION 2-108: MORTGAGES; RELEASE OR RENEWAL**
- SECTION 2-109: LIBRARY; USE BY SCHOOL DISTRICT**
- SECTION 2-110: LIBRARY; PROPERTY EXEMPT FROM EXECUTION AND TAXATION**
- SECTION 2-111: LIBRARY; PRIVATE AND ASSOCIATE LIBRARIES; DEPOSIT AND USE; AUTHORIZED REQUIREMENTS**
- SECTION 2-112: LIBRARY; DONATIONS**
- SECTION 2-113: LIBRARY; COST OF USE; VIOLATION OF RULES**
- SECTION 2-114: LIBRARY; DISCRIMINATION PROHIBITED**
- SECTION 2-115: LIBRARY; BOOK REMOVAL**
- SECTION 2-116: LIBRARY; LOST AND DAMAGED MATERIALS**
- SECTION 2-117: LIBRARY; SALE, EXCHANGE, OR DISPOSAL OF BOOKS**
- SECTION 2-118: LIBRARY; PENALTIES; RECOVERY; DISPOSITION**

ARTICLE 2 – PARK BOARD

- SECTION 2-201: OPERATION AND FUNDING**
- SECTION 2-202: MEMBERS; TERMS**
- SECTION 2-203: MEETINGS; OFFICERS**
- SECTION 2-204: DUTIES**

ARTICLE 3 – PLANNING COMMISSION

- SECTION 2-301: MEMBERS; APPOINTMENT; ALTERNATE**
- SECTION 2-302: TERMS; REMOVAL OF MEMBER; VACANCIES**
- SECTION 2-303: RESTRICTIONS ON OTHER MUNICIPAL OFFICE**
- SECTION 2-304: OFFICERS; TERMS; MEETINGS; RULES; RECORDS**
- SECTION 2-305: FUNDING; EXPENDITURES**
- SECTION 2-306: POWERS AND DUTIES; APPEAL**

ARTICLE 4 – BOARD OF ADJUSTMENT

- SECTION 2-401: MEMBERS**

SECTION 2-402: OFFICERS; MEETINGS

**SECTION 2-403: POWERS AND DUTIES; APPEALS; INTERPRETATION
OF MAPS; VARIANCES**

SECTION 2-404: APPEAL; PROCEDURE

ARTICLE 5 – PENAL PROVISION

SECTION 2-501: VIOLATION; PENALTY

CHAPTER 2 – BOARDS AND PUBLIC FACILITIES

Article 1 – Library Board

SECTION 2-101: LIBRARY; OPERATION AND FUNDING

A. The Village Board may levy a tax as provided in state law upon the taxable value of all the taxable property in the Village annually to be levied and collected in like manner as other taxes in the Village for support of the library. The levy shall be subject to Neb. Rev. Stat. §§77-3442 and 77-3443. The amount collected from such levy shall be known as the library fund and shall also include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing property and real estate from any source for the purpose of endowing the public library. All money collected by the library shall be turned over to the village treasurer along with a report of the sources of the revenue.

B. All taxes levied or collected and all funds donated or in any way acquired for the erection, maintenance, or support of the public library shall be kept for the use of the library separate and apart from all other funds of the Village, shall be drawn upon and paid out by the village treasurer upon vouchers signed by the president of the Library Board and authenticated by the secretary of the board, and shall not be used or disbursed for any other purpose or in any other manner. The Village may establish a public library sinking fund for major capital expenditures.
(Neb. Rev. Stat. §§51-201, 51-209)

SECTION 2-102: MEMBERS; TERMS

A. The Library Board shall consist of five members appointed from the residents of the Village to provide for the governance of the public library. Board members may also be appointed within five miles surrounding the Village's corporate limits, provided that said appointee is not also a resident of another municipality. No member of the Village Board shall be a member of the Library Board.

B. The Library Board members shall be appointed by a majority vote of the Village Board for four-year terms. At the expiration of each respective term, the Village Board shall appoint a member to the Library Board for the next four-year term. In case of vacancies by resignation, removal or otherwise, the Village Board, by a majority vote, shall fill such vacancy for the unexpired term. No member of the Library Board shall receive any pay or compensation for any services rendered as a member of such board.

(Neb. Rev. Stat. §51-202) (Am. Ord. No. 2021-01, 2/16/21)

SECTION 2-103: MEETINGS; OFFICERS

Members of the Library Board shall meet and elect a president, a secretary and such other officers as may be necessary. It shall be the duty of the secretary to keep the full

and correct minutes and records of the meetings and to file the same with the village clerk, where they shall be available for public inspection during office hours. The Library Board shall meet at such times as its members may designate. All actions of the Library Board shall be subject to the review of the Village Board. Any member of the Library Board may, after public hearing, be removed by a majority vote of the Village Board. The Library Board shall be responsible for making such reports and performing such additional duties as the Village Board may designate from time to time. (Neb. Rev. Stat. §51-204) (Am. Ord. No. 2021-01, 2/16/21)

SECTION 2-104: POWERS AND DUTIES

A. The Library Board shall have control and management of the library and shall have the power to make and adopt such bylaws, rules, and regulations for its own guidance and for the government of the library and reading room as it may deem expedient, not inconsistent with Neb. Rev. Stat. §§51-201 through 51-219.

B. The Library Board shall have exclusive control of expenditures, all money collected or donated to the credit of the library fund, 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. The board shall submit a budget to the village clerk's office on or before August 1 for the fiscal year beginning October 1 for consideration and insertion into the village's all-purpose budget.

C. The Library Board may appoint a suitable librarian and assistants, fix their compensation, and remove such appointees. The Village Board shall approve any personnel administrative or compensation policy or procedure before implementation of such policy or procedure by the Library Board.

D. The Library Board may 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. The board may fix and impose by general rules any penalties and forfeitures for trespasses 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. All fees, penalties, and forfeitures may be collected in civil action in the event of failure, neglect, or refusal to pay the said assessments. The board shall have and exercise such powers as may be necessary to carry out the spirit and intent of Neb. Rev. Stat. §§51-201 through 51-219 in establishing and maintaining the library and reading room. All actions of the Library Board shall be subject to the review and supervision of the Village Board.
(Neb. Rev. Stat. §§51-205, 51-207, 51-211)

SECTION 2-105: ANNUAL REPORT TO VILLAGE BOARD; BUDGET; EXPENDITURES

A. The Library Board shall, on or before the second Monday in February in each year, make a report to the Village Board of the condition of its trust on the last day of

the prior fiscal year. The report shall show all money received and credited or expended; the number of materials held, including books, video and audio materials, software programs, and materials in other formats; the number of periodical subscriptions on record, including newspapers; the number of materials added and the number withdrawn from the collection during the year; the number of materials circulated during the year; and other statistics, information, and suggestions as the Library Board may deem of general interest or as the Village Board may require. The report shall be verified by affidavit of the proper officers of the Library Board.

B. The Library Board shall submit a budget to the village clerk's office on or before August 1 for the fiscal year beginning October 1 for consideration and insertion into the Village's budget, which reports shall be verified by affidavit of the president and secretary of the Library Board. The board shall further submit to the village clerk, no less frequently than monthly, receipts for all requested expenditures that are being requested of the Village's general account.

(Neb. Rev. Stat. §51-213) (Am. Ord. No. 2021-01, 2/16/21)

SECTION 2-106: REAL ESTATE; SALE AND CONVEYANCE

A. The Library Board may, by resolution, direct the sale and conveyance of any real estate owned by the board or by the public library which is not used for library purposes or of any real estate so donated or devised to the board or to the library, upon such terms as the board may deem best.

B. Before any such sale is made, the Library Board shall advertise the sale once each week for three consecutive weeks in a legal newspaper published in or of general circulation in the Village. The notice shall set out the time, place, terms, manner of sale, legal description of such real estate, and the right to reject any and all bids. If the bids have not been rejected, then the real estate shall be sold to the highest bidder for cash and the president of the Library Board, upon resolution of the board directing him or her so to do, shall convey the real estate to the purchaser of such real estate upon payment of said bid. If within 30 days after the third publication of the notice a remonstrance against the sale is signed by 30% of the registered voters of the village voting at the last regular village election and filed with the Village Board, the property shall not then nor within one year thereafter be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the 30-day period but the filing shall be considered timely if filed or postmarked on or before the next business day.

(Neb. Rev. Stat. §51-216)

SECTION 2-107: GROUNDS AND BUILDING

The Library Board may purchase or lease grounds, exercise the power of eminent domain, and condemn real estate for the purpose of securing a site for a library building. The procedure to condemn property shall be exercised in the manner set forth in Neb. Rev. Stat. §§76-704 through 76-724. (Neb. Rev. Stat. §51-210)

SECTION 2-108: MORTGAGES; RELEASE OR RENEWAL

The president of the Library Board shall have the power to release, upon full payment, any mortgage constituting a credit to the library fund and standing in the name of the board. The signature of the president on any such release shall be authenticated by the secretary of the board. The president and secretary in like manner, upon resolution duly passed and adopted by the board, may renew any such mortgage. (Neb. Rev. Stat. §51-206)

SECTION 2-109: LIBRARY; USE BY SCHOOL DISTRICT

Any school district may in its discretion at its annual meeting by a majority vote authorize the School Board to contract for the use of the village library by the inhabitants of such school district.

SECTION 2-110: LIBRARY; PROPERTY EXEMPT FROM EXECUTION AND TAXATION

The property of the village library shall be exempt from execution and taxation, as is other village property.

SECTION 2-111: LIBRARY; PRIVATE AND ASSOCIATE LIBRARIES; DEPOSIT AND USE; AUTHORIZED REQUIREMENTS

The Library Board shall have power to authorize any circulating library, reading matter, or work of art belonging to any private person, association or corporation to be deposited in the village library rooms to be drawn or used outside of the rooms only on payment of such fee or membership as the person, corporation or association owning the same may require. Deposits may be removed by the owner thereof at pleasure but the books or other reading matter so deposited in the rooms of the village library shall be separately and distinctly marked and kept upon shelves apart from the books of the library. Every such private or associate library or other property so deposited in the library, while so placed or remaining, shall without charge be subject to use and reading within the library room by any person who is an inhabitant of the Village entitled to the use of the free library.

SECTION 2-112: LIBRARY; DONATIONS

Any person may make donation of money, lands, or other property for the benefit of the public library. The title to property so donated may be made to and shall vest in the Library Board and its successors in office, and the board shall thereby become the owners thereof in trust to the uses of the public library. (Neb. Rev. Stat. §51-215)

SECTION 2-113: LIBRARY; COST OF USE; VIOLATION OF RULES

A. Except as provided in subsection (B) of this section, the library shall be free

of charge for the use of the inhabitants of the Village, subject always to such reasonable regulations as the Library Board may adopt to render the library of the greatest use to the inhabitants. The board may exclude from the use of the library any person who willfully violates or refuses to comply with rules and regulations established for the government thereof.

B. The public library shall make its basic services available without charge to all residents of the Village. "Basic services" shall include but are not limited to free loan of circulating print and non-print materials from the local collection and general reference and information services.

SECTION 2-114: LIBRARY; 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 2-115: LIBRARY; BOOK REMOVAL

It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book from the library without the consent of the librarian or an authorized employee of the library. Any person removing a book from the library without properly checking it out shall be deemed guilty of an offense. (Neb. Rev. Stat. §51-211)

SECTION 2-116: LIBRARY; LOST AND DAMAGED MATERIALS

Any person who injures or fails to return any item checked out from the library shall forfeit and pay not less than the value of the item in addition to any replacement costs and penalty which the Library Board may assess. (Neb. Rev. Stat. §51-211)

SECTION 2-117: LIBRARY; SALE, EXCHANGE, OR DISPOSAL OF BOOKS

The Library Board may authorize the sale, exchange, or disposal of any surplus, damaged, defective, obsolete, or duplicate books in the Library. Records shall be kept of any such books so disposed of. (Neb. Rev. Stat. §51-207)

SECTION 2-118: LIBRARY; PENALTIES; RECOVERY; DISPOSITION

Penalties imposed or accruing by any bylaw or regulation of the Library Board 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 Library Board. Money collected in such actions, other than any court costs and attorney's fees, shall be placed in the treasury of the Village to the credit of the library fund. Attorney's fees collected pursuant to this section shall be placed in the treasury of the Village and credited to the budget of the village attorney's office. (Neb. Rev. Stat. §51-214)

Article 2 – Park Board

SECTION 2-201: OPERATION AND FUNDING

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

B. The board shall have the authority to adopt rules and regulations for the efficient management of the village parks and other recreational areas of the Village. The board shall not enter into a contract of any nature which involves an expenditure of funds unless the contract has been approved by resolution of the majority of the members of the Village Board prior to contractual agreement.

(Neb. Rev. Stat. §17-952)

SECTION 2-202: MEMBERS; TERMS

The Park Board shall consist of five members appointed by the Board of Trustees, said members to be residents of the Village. No member of the Village Board shall serve as a member of the Park Board while serving a term of office as a member of the Village Board. The respective members of the Park Board shall serve two-year terms of office unless reappointed. The board shall serve without compensation and may be required, in the discretion of the Village Board, to give a bond in a sum set by resolution of the board and conditioned upon the faithful performance of their duties.

SECTION 2-203: MEETINGS; OFFICERS

The Park Board shall meet monthly or at the call of its chairman. Special meetings may be held upon the call of the chairman or any two of the board members. At the Park Board's first meeting of the year, the members shall organize by selecting from their number a chairman and secretary. No member of the Park Board shall serve in the capacity of both chairman and secretary. It shall be the duty of the secretary to keep the full and correct minutes of all records of the meetings of the Park Board and to file the same with the village clerk, where they shall be available for public inspection. A majority of the Park Board shall constitute a quorum for the transaction of business.

SECTION 2-204: DUTIES

It shall be the duty of the Park Board to have charge of all parks and recreational facilities belonging to the Village. The board shall establish appropriate rules and regulations for the management, use and operation of the same. The Park Board shall be responsible for making such reports and performing such other duties as the Village

Board may from time to time designate. All actions of the Park Board shall be subject to the review and control of the Village Board.

Article 3 – Planning Commission

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

SECTION 2-301: MEMBERS; APPOINTMENT; ALTERNATE

A. The Planning Commission shall consist of five regular members who shall represent, as far as is possible, the different professions or occupations in the Village and shall be appointed by the chairman of the Village Board by and with the approval of a majority vote of the board. Two of the regular members may be residents of the area designated pursuant to Neb. Rev. Stat. §§16-902 or 17-1001 over which the Village is exercising extraterritorial zoning jurisdiction. When there is a sufficient number of residents in such area over which the Village exercises extraterritorial zoning jurisdiction, one regular member of the commission shall be a resident from such area. If it is determined by the Village Board that a sufficient number of residents reside in such area and no such resident is a regular member of the commission, the first available vacancy on the commission shall be filled by the appointment of such an individual. For purposes of this section, “a sufficient number of residents” shall mean 200 residents. All regular members of the commission shall serve without compensation.

B. The Village may, by ordinance, provide for the appointment of one alternate member to the Planning Commission who shall be chosen by the chairman with the approval of a majority vote of the Village Board. The alternate member shall serve without compensation. The term of the alternate member shall be three years and he or she shall hold office until his or her successor is appointed and approved. The alternate member may be removed from office in the same manner as a regular member. If the alternate member position becomes vacant other than through the expiration of the term, the vacancy shall be filled for the unexpired portion of the term by the chairman with the approval of a majority vote of the Village Board. The alternate member may attend any meeting and may serve as a voting and participating member of the commission at any time when less than the full number of regular commission members is present and capable of voting.

(Neb. Rev. Stat. §19-926)

SECTION 2-302: TERMS; REMOVAL OF MEMBER; VACANCIES

The term of each regular member shall be three years. All regular members shall hold office until their successors are appointed. Any member may, after a public hearing before the Village Board, be removed by the chairman with the consent of a majority vote of the board for inefficiency, neglect of duty or malfeasance in office, or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by appointment by the board chairman. (Neb. Rev. Stat. §19-926)

SECTION 2-303: RESTRICTIONS ON OTHER MUNICIPAL OFFICE

A regular or alternate member of the Planning Commission may hold any other municipi-

pal office except (A) a member of the Village Board, (B) a member of any community redevelopment authority or limited community redevelopment authority created under Neb. Rev. Stat. §18-2102.01, or (C) a member of any citizen advisory review committee created under Neb. Rev. Stat. §18-2715. (Neb. Rev. Stat. §19-926)

SECTION 2-304: OFFICERS; TERMS; MEETINGS; RULES; RECORDS

A. 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 reelection. The commission shall hold at least one regular meeting in each calendar quarter, except as provided herein. The Village Board may require the commission to meet more frequently and the chairman of the commission may call for a meeting when necessary to deal with business pending before the commission. If no business is pending, the chairman may cancel a quarterly meeting but no more than three quarterly meetings may be cancelled per calendar year. 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.

B. The commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record.

(Neb. Rev. Stat. §§19-926, 19-927)

SECTION 2-305: FUNDING; EXPENDITURES

The Village Board may provide the funds, equipment, and accommodations necessary for the work of the Planning Commission but the expenditures of the commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the board. No expenditures or agreements for expenditures shall be valid in excess of such amounts. (Neb. Rev. Stat. §19-927)

SECTION 2-306: POWERS AND DUTIES; APPEAL

A. Except as provided in Neb. Rev. Stat. §§19-930 to 19-933, the Planning Commission shall (1) make and adopt plans for the physical development of the Village, including any areas outside its boundaries which in the commission's judgment bear relation to the planning of such village and including a Comprehensive Development Plan as defined by Neb. Rev. Stat. §19-903; (2) prepare and adopt such implemental means as a capital improvement program, subdivision regulations, building codes, and a zoning ordinance in cooperation with other interested municipal departments; and (3) consult with and advise public officials and agencies, public utilities, civic organizations, educational institutions, and citizens with relation to the promulgation and implementation of the Comprehensive Development Plan and its implemental programs. The commission may delegate authority to any such group to conduct studies and make surveys for the commission, make preliminary reports on its findings, and hold public hearings before submitting its final reports. The Village Board shall not

take final action on matters relating to the Comprehensive Development Plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning until it has received the recommendation of the Planning Commission. The Village Board shall by ordinance set a reasonable time within which the recommendation from the commission is to be received. A recommendation from the commission shall not be required for subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights of way or easements is involved, and such subdivision complies with the ordinance requirements concerning minimum areas and dimensions of such lots and blocks, if the Village Board has designated an agent by ordinance pursuant to Neb. Rev. Stat. §19-916.

B. The commission may, with the consent of the Village Board, in its own name (1) make and enter into contracts with public or private bodies, (2) receive contributions, bequests, gifts, or grant funds from public or private sources, (3) expend the funds appropriated to it by the Village, (4) employ agents and employees, and (5) acquire, hold, and dispose of property. The commission may on its own authority make arrangements consistent with its program, conduct or sponsor special studies or planning work for any public body or appropriate agency, receive grants, remuneration, or reimbursement for such studies or work, and at its public hearings, summon witnesses, administer oaths, and compel the giving of testimony.

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

Article 4 – Board of Adjustment

SECTION 2-401: MEMBERS

The Board of Adjustment shall be funded from time to time out of the general fund and shall consist of five members: the four Village Board members and the chairman of the Planning Commission. Upon loss of membership on the Planning Commission, the said member shall also lose his or her membership on the Board of Adjustment. Each member of the Board of Adjustment shall serve a term of three years unless reappointed and shall be removable only for cause by the Village Board upon written charges and after a public hearing. Any vacancy shall be filled for the unexpired term of any member whose term becomes vacant.

SECTION 2-402: OFFICERS; MEETINGS

The Board of Adjustment shall organize at its first meeting in December of each year and elect from its membership a chairman and secretary. It shall be the duty of the secretary to keep complete and accurate minutes of all board meetings and to file the same at the office of the village clerk for examination by the public during office hours. Meetings of the board shall be open to the public and shall be held at such times as the Village Board may designate or at such other times as the chairman may, in his or her discretion, call a meeting. Special meetings may be also held upon the call of any three members of the board. A majority of the board shall constitute a quorum for the purpose of doing business.

SECTION 2-403: POWERS AND DUTIES; APPEALS; INTERPRETATION OF MAPS; VARIANCES

A. It shall be the duty of the board:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by a municipal official 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 the zoning regulations, requests for interpretation of any map; and
3. When by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this section and Neb. Rev. Stat. §§19-901, 19-903 to 19-904.01, and 19-908 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal

relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution. 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. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
- c. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
- 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. No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

B. In exercising the above-mentioned powers, the board may 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 end shall have all powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such municipal official or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

C. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the Village affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order

which may be granted by the Board of Adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

D. In exercising the powers granted within this section, the board may, in conformity with Neb. Rev. Stat. §§19-901 to 19-915, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

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

SECTION 2-404: APPEAL; PROCEDURE

A. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, officer, department, board, or bureau of the Village may present to the district court a petition duly verified, setting forth that such decision is illegal in whole or in part and specifying the grounds of such illegality. Such petition must be presented to the court within 15 days after the filing of the decision in the office of the board. Upon the filing of such petition a summons shall be issued and served upon the Board of Adjustment, together with a copy of the petition. Return of service shall be made within four days after the issuance of the summons. Within ten days after the return day of such summons, the Board of Adjustment shall file an answer to the petition which shall admit or deny the substantial averments of the petition and shall state the contentions of the board with reference to the matters in dispute as disclosed by the petition. The answer shall be verified in like manner as required for the petition.

B. At the expiration of the time for filing answer, the court shall proceed to hear and determine the cause without delay and shall render judgment thereon according to the forms of law. If, upon the hearing, it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his or her findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. The appeal to the district court shall not stay proceedings upon the decision appealed from but the court may, on application, on notice to the board and on due cause shown, grant a restraining order. Any appeal from such judgment of the district court shall be prosecuted in accordance with general state laws regulating appeals in actions at law.

(Neb. Rev. Stat. §19-912)

Article 5 – Penal Provision

SECTION 2-501: 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.