

Chapter 2

COMMISSIONS AND BOARDS

Article 2. Commissions and Boards

§2-201 BOARD OF ADJUSTMENT.

(A) The Board of Trustees shall appoint a Board of Adjustment, which shall consist of five (5) regular members plus one (1) additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason. Each member shall be appointed to a term of three (3) years and shall be removable for cause by the Chairperson of the Board of Trustees, with the advice and consent of the other members of the Board of Trustees, upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One (1) member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership of the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment. If the Board does not include a member who resides in the extraterritorial zoning jurisdiction of the village, the first vacancy occurring on the Board of Adjustment after the effective date of this section shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the Village at such time more than two hundred (200) persons reside within such area. Thereafter, at all times, at least one (1) member of the Board of Adjustment shall reside outside the corporate boundaries of the Village but within its extraterritorial zoning jurisdiction. No member of the Board of Trustee shall serve as a member of the Board of Adjustment.

(B) The members of the Board of Adjustment shall serve without compensation and may be required, in the discretion of the Board of Trustees, to give a bond in a sum set by resolution to the Board of Trustees and conditioned upon the faithful performance of their duties. The Board of Adjustment shall organize at its first meeting each year after the Board of Trustees meeting when appointments are regularly made and shall elect from its membership a Chairperson and Secretary. No member of the Board of Adjustments shall serve in the capacity of both Chairperson and Secretary of the Board.

(C) The Board of Adjustment shall adopt rules in accordance with the provisions of this section and section 19-901 to 19-914 RS Neb. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. Special meetings may be also held upon the call of any three (3) members of the Board. A majority of the Board shall constitute a quorum for the purpose of doing business. The Chairperson, or his or her absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. It shall be the duty of the Secretary to keep complete and accurate minutes of the Board's proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and to keep records of the Board's examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be public record. The Board shall be responsible for making such reports and performing such other duties as the Board of Trustees may designate. (*Ref. 19-908 RS Neb.*)

(D) 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 who the appeal is taken and with the Board a notice of the 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, 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 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 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. (*Ref. 19-909 RS Neb.*)

(E) The Board shall have only the following powers:

(1) To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures, except that the authority to hear and decide appeals shall not apply to decisions made by the Board of Trustees or Planning Commission regarding a conditional use or special exception:

(2) To hear and decide, in accordance with the provisions of any zoning regulation, 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 zoning regulation 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.

(F) No such variance shall be authorized by the Board unless it finds that:

(1) The strict application of the zoning regulation would produce undue hardship;

(2) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;

(3) 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

(4) 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 of the intended use of the property is not of so general or recurring a nature as to make reasonable practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

(G) In exercising the powers granted in this section, the Board may, in conformity with sections 19-901 to 19-915 RS Neb., 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 appeals is taken. The concurring vote of four (4) 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. *(Ref. 19-910 RS Neb.)*

(H) Appeals from a decision by the Board may be taken as provided in section 19-912 RS Neb. *(Amended by Ord. No. 548, 1/11/05)*

§2-202 BOARD OF HEALTH. The Governing Body shall appoint the Board of Health which shall consist of three (3) members who are residents of the Municipality. The Chairperson of the Village Board, who shall be Chairperson, and two (2) 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. If the Village Board of Trustees has appointed a Marshal, the Marshal may be appointed to the Board and serve as Secretary and quarantine officer. The members of the Board shall serve a one (1) year term of office, unless reappointed and shall reorganize at the first (1st) meeting in December of each year. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings and file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. The Board shall be funded by the Governing Body from time to time from 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 Governing Body may designate. Special meetings may be held upon the call of the Chairperson or any two (2) members of the Board. It shall be the duty of the Board to enact rules and regulations which shall have the full force and effect of law, to safeguard the health of the residents of the Municipality. The Board shall enforce the rules and regulations and provide fines and punishments for any violations thereof. It may regulate, suppress, and prevent the occurrence of nuisances and shall actively enforce all laws of the State of Nebraska and ordinances of the Municipality relating to matters of sanitation which affect the health and safety of the people. The Board shall regularly inspect such premises and businesses as the Governing Body may direct. All actions of the Board shall be subject to the review and supervision of the Governing Body. The Board shall be responsible for making such reports and performing such other duties as the Governing Body may designate. No member of the Board of Health shall hold more than one (1) Board of Health position. *(Ref. 17-208 RS Neb.)(Amended by Ord. Nos. 394, 7/8/97; 471, 12/12/00)(Ord. No. 217, 5/12/82).*

§2-203 NURSING HOME BOARD. The Village Board of Trustees shall act as the Nursing Home and Assisted Living Board. The Board shall consist of five (5) members who shall be residents of the Municipality. The members of the Board shall serve a one (1) year term of office unless reappointed and one (1) member shall be appointed or re-appointed each year. The Board shall serve without compensation and may be required, in the direction of the Governing Body, to give a bond in a sum set by resolution of the Governing Body and conditioned upon the faithful performance of their duties. A majority of the Board members shall constitute a quorum for the transaction of business. The Board shall meet at such times as the Governing Body may designate. Special meetings may be held upon the call of the Chairman, or any three (3) members of the Board. The minutes of the Nursing Home and Assisted Living Board meetings shall be a public record open to inspection by the public upon request at any reasonable time at the office of the Municipal Clerk. It shall be the duty of the Board to have general charge of the Municipal Nursing Home and Assisted Living and establish appropriate rules and regulations for the management, operation, and use of the same. The Board may enter into a contract

with a third-party entity for the day-to-day management of the care facility. All actions of the Board shall be subject to the review and supervision of the Governing Body. The Board shall be responsible for making such reports and performing such additional duties as the Governing Body may, from time to time, designate. (Ref. 17-966 RS Neb.)(Amended by Ord. No. 698, 12/10/19)

§2-204 PLANNING COMMISSION.

(1) The Planning Commission shall consist of five (5) regular members who shall represent, insofar as is possible, the different professions or occupations in the Municipality and shall be appointed by the Chairperson, by and with the approval of a majority vote of the members elected to the Board of Trustees. Two (2) of the regular members may be residents of the area over which the Municipality is authorized to exercise extraterritorial zoning and subdivision regulation. When there is a sufficient number of residents in the area over which the Municipality exercises extraterritorial zoning and subdivision regulation, one (1) regular member of the Commission shall be a resident from such area. If it is determined by the Board of Trustees 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 two hundred (200) residents. The term of each regular member shall be three (3) years, except that approximately one-third (1/3) of the regular members of the first Commission shall serve for terms of one (1) year, one-third (1/3) for terms of two (2) years, and one-third (1/3) for terms of three (3) years. All regular members shall hold office until their successors are appointed. Any member may, after a public hearing before the Board of Trustees, be removed by the Chairperson, with the consent of a majority vote of the members elected to the Board of Trustees, for inefficiency, neglect of duty, or malfeasance in office, or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by the Chairperson.

(2) All regular members of the Commission shall serve without compensation and shall hold no other Municipal office except when appointed to serve on the Board of Adjustment as provided in section 19-908 RS Neb. All members of the Commission may be required, in the discretion of the Board of Trustees, to give bond in a sum set by resolution of the Board of Trustees, and conditioned upon the faithful performance of their duties. The Commission shall elect its Chairperson and a Secretary from its members and create and fill such other of its offices as it may determine. The term of the Chairperson and the Secretary shall be one year, and they shall be eligible for reelection. No member of the Commission shall serve in the capacity of both the Chairperson and Secretary of the Commission. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings and to file them with the Municipal Clerk where they shall be available for public inspection during office hours. The commission shall be funded by the Board of Trustees from time to time out of the General Fund. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the Board of Trustees; and no expenditures nor agreements for expenditures shall be valid in excess of such amounts. 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 hold at least one regular meeting in each calendar quarter, except the Board of Trustees may require the Commission to meet more frequently and the Chairperson of the Commission may call for a meeting when necessary to deal with business pending before the Commission. Special meetings may also be held upon the call of any three (3) members of the

Commission. The Commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record. The Commission shall make and adopt plans for the physical development of the Municipality, including any areas outside its boundaries which, in the Commission's judgment, bear relation to the planning of the Municipality, and shall carry out the other duties and exercise the powers specified in Neb. RS 19-929. All actions by the Commission shall be subject to the review and supervision of the Board of Trustees. The Commission shall make its recommendations to the Board of Trustees so that they are received by the Board of Trustees within ninety (90) days after the Commission begins consideration of a matter relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning. The Commission shall be responsible for making such reports and performing such other duties as the Board of Trustees may, from time to time, designate.

(3) The Chairperson of the Board of Trustees, with the approval of a majority vote of the elected members of the Board of Trustees, shall appoint one (1) alternate member to the Commission. The alternate member shall serve without compensation and shall hold no other Municipal office. The term of the alternate member shall be three (3) 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 Chairperson with the approval of a majority vote of the elected members of the Board of Trustees. 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. *(Ref. 19-924 through 19-929 RS Neb.)(Ord. No. 306, 1/11/94)(Amended by Ord. Nos. 348, 3/14/95; 436, 11/10/98)*

§2-205 TREE BOARD.

(1) There is hereby created and established a Village Tree Board for the Village of Bertrand, Nebraska, which shall consist of three (3) members, citizens and residents of this Village, who shall be appointed by the Chairman of the Board with the approval of the Board of Trustees.

(2) The term of the three (3) persons to be appointed by the Chairman of the Board of Trustees shall be three (3) years except that the term of one (1) of the members appointed to the first board shall be only one (1) year; the term of one (1) of the members appointed to the first board shall be two (2) years; and the term of the other member of the first board shall be for three (3) years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for a new three (3) year term.

(3) Members of the Tree Board shall serve without compensation.

(4) It shall be the responsibility of the Tree Board to study, investigate, counsel and develop and/or upgrade annually, and administer written plans (annual and long range) for the care, replacement, maintenance, and removal or disposition of trees and shrubs in parks, along streets and in other public places. Such plan will be presented annually to the Village Board of Trustees and upon their acceptance and approval shall constitute the official comprehensive Village tree plan for the Village of Bertrand, Nebraska. The Tree Board shall, when requested by the Board of Trustees, consider, investigate, make finding, report and recommend upon any special matter or question coming within the scope of its work.

(5) The Tree Board shall choose its own officers and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

(6) Any person may appeal to the Tree Board any ruling or order that has been made by the Tree Board. After a decision has been rendered by the Tree Board, the individual may appeal to the Board of Trustees who may hear the matter and make a final decision. The Board of Trustees shall have the right to review the conduct, acts and decisions of the Tree Board. (*Ord. No. 305, 11/30/93*)

§2-206 COMMUNITY DEVELOPMENT AGENCY.

(1) The Village hereby creates the "Community Development Agency of the Village of Bertrand, Nebraska" with all rights and obligations provided for Community Redevelopment Authorities in the Nebraska Community Redevelopment Law, Neb. Rev. Stat. §182101, et seq. (the "Act"). The Agency shall consist of the Chairperson and Village Board of Trustees.

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

(3) The Chairperson of the Board of Trustees of the Village of Bertrand, Nebraska is hereby authorized and directed to implement this section.

(4) The Agency shall exercise all rights and powers granted to Community Development Agencies pursuant to Act. (*Ord. 567, 7/18/06*)

§2-207 PUBLIC LIBRARY; LIBRARY BOARD.

(1) There is hereby established a public library of the Village of Bertrand, Nebraska/

(2) There is hereby established a Village Library Board for the Village. The Library Board shall consist of five (5) members, who shall be appointed by a majority vote of the members of the Board of Trustees. No member of the Board of Trustees shall be a member of the Library Board.

(3) The members of the Library Board shall serve a term of four (4) years; provided, however, that the initial Library Board members who are first appointed may be designated by the Board of Trustees to serve a lesser number of years. In cases of vacancies by resignation, removal, or otherwise, the Board of Trustees shall appoint an individual to fill the vacancy for the unexpired term.

(4) No member of the Library Board may receive any pay or compensation for any services rendered as a member of the Library Board.

(5) The members of the Library Board shall organize by electing from their number a president, secretary, and such other officers as may be necessary. A majority of the members of the Library Board shall constitute a quorum for the transaction of business. The Library Board shall have the power to make and adopt such bylaws, rules and regulations for its own guidance and for the government of the Library as it may deem expedient, not inconsistent with the laws of the State of Nebraska. It shall be the duty of the Secretary of the Library Board to keep the full and correct minutes and records of all meetings, and to file the same with the Village Clerk where they shall be available for public inspection at any time. (*Ord. No. 570, 12/12/06*)