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CHAPTER 1 – CIVIL ADMINISTRATION

Article 1 – Village Administration

SECTION 1-101: CORPORATE EXISTENCE

The Village of Fairmont, Nebraska, having a population of fewer than 800 inhabitants, is hereby declared to be a village and shall be governed in all respects by the laws of the State of Nebraska applicable to and regulating villages. (Neb. Rev. Stat. §17-201)

SECTION 1-102: OFFICIAL CORPORATE SEAL

The official corporate seal of the village shall be kept in the office of the village clerk, who shall affix an impression of the said official seal to all warrants, licenses, permits, ordinances, and all other official papers issued by order of the Village Board and countersigned by him or her. (Neb. Rev. Stat. §17-502)

SECTION 1-103: OATH OF OFFICE

A. All elected or appointed officials of the village shall, before entering upon their respective duties, take and subscribe the following oath which shall be endorsed upon their respective bonds, except when a different oath is specifically provided herein:

"I, _____, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Nebraska against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely and without mental reservation or for the purpose of evasion; and that I will faithfully and impartially perform the duties of the office of _____ according to law and to the best of my abilities; and I do further swear that I do not advocate nor am I a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence; and that during such time as I am in this position I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence. So help me God."

B. If any such officer is not required to give bond, the oath shall be filed in the office of the secretary of state or with the village clerk.

(Neb. Rev. Stat. §§11-101, 17-204)

SECTION 1-104: BONDS; BLANKET BOND

A. The village may enact ordinances or bylaws to require from all officers and servants, elected or appointed, bonds and security or evidence of equivalent insurance for the faithful performance of their duties. All official bonds of village officers must be

in form, joint and several, and made payable to the village in such penalty as the Village Board may fix. All official bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of such principal and shall inure to the benefit of any persons injured by a breach of the conditions of such bonds. The approval of each official bond shall be endorsed upon such bond by the officer approving the same and no bond shall be filed and recorded until so approved. No bond shall be deemed to be given or complete until the approval of the Village Board and all sureties are endorsed in writing on the instrument by the chairman and village clerk pursuant to the approval of the board. In place of the individual bonds required to be furnished by municipal officers, a blanket bond or undertaking or evidence of equivalent insurance may be given by the officers. The village may pay the premium for the bond or insurance coverage, which shall be, at a minimum, an aggregate of the amounts fixed by law or by the Village Board and with such terms and conditions as may be required.

B. All official bonds of local officers shall be executed by the principal named in such bonds and by at least two sufficient sureties who shall be freeholders of the county in which such bonds are given; or any official bond of a local officer may be executed by the officer as principal and by a guaranty, surety, fidelity or bonding company as surety or by two or more of such companies. Only such companies as are legally authorized to transact business in this state shall be eligible to suretyship on the bond of a local officer. No official bond shall be rendered void by reason of any informality or irregularity in its execution or approval.

C. Official bonds, with the oath endorsed thereon, shall be filed in the proper office within the following time: (1) of all officers elected at any general election, following receipt of their election certificate and not later than ten days before the first Thursday after the first Tuesday in January next succeeding the election; (2) of all appointed officers, within 30 days after their appointment; and (3) of officers elected at any special election and village officers, within 30 days after the canvass of the votes of the election at which they were chosen. The filing of the bond with the oath endorsed thereon does not authorize a person to take any official action prior to the beginning of his or her term of office pursuant to Article XVII, Section 5 of the Constitution of Nebraska.

D. The officers with whom any official bonds are required by law to be filed shall carefully record and preserve the same in their respective offices and shall give certified copies thereof, when required, under the seal of their office and shall be entitled to receive for the same the usual fee allowed by law for certified copies of records in other cases.

E. If any person elected or appointed to any office neglects to have his or her official bond executed and approved as provided by law and filed for record within the time limited by Neb. Rev. Stat. §§11-101 to 11-122, the provisions of Neb. Rev. Stat. §11-115 shall apply.

F. Any person appointed to fill a vacancy, before entering upon the duties of the office, must give a bond corresponding in substance and form with the bond required

of the officer originally elected or appointed, as herein provided. When the incumbent of an office is re-elected or re-appointed, he or she shall qualify by taking the oath and giving the bond as above directed; but when such officer has had public funds or property in his or her control, his or her bond shall not be approved until he or she has produced and fully accounted for such funds and property. When it is ascertained that the incumbent of an office holds over by reason of the non-election or non-appointment of a successor or of the neglect or refusal of the successor to qualify, he or she shall qualify anew within ten days from the time at which his or her successor, if elected, should have qualified.

(Neb. Rev. Stat. §§11-103 to 11-105, 11-109 to 11-113, 11-115 to 11-117, 17-604)

SECTION 1-105: COMPENSATION

A. The officers and employees of the village shall receive such compensation as the chairman and Village Board shall fix by ordinance. The village may enact ordinances or bylaws to regulate and prescribe the compensation of officers not provided for in state law. No officer shall receive any pay or perquisites from the village other than his or her salary. The board shall not pay or appropriate any money or other valuable thing to any person not an officer for the performance of any act, service or duty, the doing or performance of which shall come within the proper scope of the duties of any officer of the village.

B. The compensation of any elective official of the village shall not be increased or diminished during the term for which he or she shall have been elected except when there has been a merger of offices; provided, the compensation of the members of the Village Board, a board or commission may be increased or diminished at the beginning of the full term of any member whether or not the terms of one or more members commence and end at different times. No elected official may be rehired at a greater salary if he or she resigns and desires to be rehired during the unexpired term of office. The official may be rehired after the term of office during which he or she resigned at a greater salary.

C. All salaries of the elective officers of the village shall be set by ordinance by the Village Board and kept on file at the office of the village clerk for public inspection. (Neb. Rev. Stat. §§17-108, 17-108.02, 17-604, 17-611, 17-612)

SECTION 1-106: CONFLICT OF INTEREST

A. For purposes of this section, "officer" shall mean: (1) any member of any board or commission of the village; (2) any appointed official if such village official serves on a board or commission which spends and administers its own funds and is dealing with a contract made by such board or commission; or (3) any elected village official. "Immediate family" shall mean a child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes.

B. Unless specified otherwise, volunteer firefighters and ambulance drivers shall

not be considered officers for purposes of this section with respect to their duties as firefighters and ambulance drivers.

C. No officer of the village shall be permitted to benefit from any contract to which the village is a party. The existence of such an interest in any contract renders the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment thereof with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the village or by any resident thereof and must be brought within one year after the contract is signed or assigned. Any such decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the village has benefited thereby. The prohibition in this section shall apply only when the officer or his or her parent, spouse, or child:

1. Has a business with which the individual is associated or a business association which shall mean a business (a) in which the individual is a partner, director or officer or (b) in which the individual or a member of the individual's immediate family is a stockholder of a closed corporation stock worth \$1,000.00 or more at fair market value or which represents more than 5% equity interest, or is a stockholder of publicly traded stock worth \$10,000.00 or more at fair market value or which represents more than 10% equity interest; an individual who occupies a confidential professional relationship protected by law shall be exempt from the definition herein and this definition shall not apply to publicly traded stock under a trading account if the filer reports the name and address of the stockbroker; or
2. Will receive a direct pecuniary fee or commission as a result of the contract; provided, however, if such officer is an employee of the business involved in the contract and has no ownership interest or will not receive a pecuniary fee, such officer shall not be deemed to have an interest within the meaning of this section.

D. The provisions of this section shall not apply if the interested officer:

1. Makes a declaration on the record to the governmental body responsible for approving the contract regarding the nature and extent of his or her interest, prior to official consideration of the contract;
2. Does not vote on the matter of granting the contract, except that if the number of members of the body declaring an interest in the contract would prevent the body, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and
3. Does not act for the governing body as to inspection or performance under the contract in which he or she has an interest.

E. The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any village by a financial institution shall not be considered a contract under the provisions of this section. The ownership of less than 5% of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section. Notwithstanding the provisions of subsections (D)(1) through (3) above, if an officer's parent, spouse or child is an employee of the village, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his or her parent, spouse, or child for special action. If an officer has the power to employ personnel and he or she hires his or her parent, spouse, or child, such officer shall disclose the hiring pursuant to subsections (F)(1) through (5) below, except that if the parent, spouse, or child is already employed in the position at the time the officer takes office and such position does not change, no disclosure need be made. Notwithstanding any other provision of this section, any contract entered into with an interested officer shall be subject to applicable competitive bidding requirements and shall be fair and reasonable to the village.

F. The village clerk shall maintain, separately from other records, a ledger containing the information listed in this subsection about every contract entered into by the village in which an officer has an interest as specified above for which disclosure is made as provided in subsections (D)(1) through (3) above. Such information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include the (1) names of the contracting parties; (2) nature of the interest of the officer in question; (3) date that the contract was approved by the village; (4) amount of the contract; and (5) basic terms of the contract.

G. The information supplied relative to the contract shall be provided to the clerk not later than ten days after the contract has been signed by both parties. The ledger kept by the clerk shall be available for public inspection during normal working hours.

H. An open account established for the benefit of the village or entity thereof, with a business in which an officer has an interest, shall be deemed a contract subject to the provisions of this section. The statement required to be filed pursuant to this section shall be filed within ten days after such account is opened. Thereafter, the clerk shall maintain a running account of all amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to the provisions of this section.

I. Any officer who knowingly violates the provisions of Neb. Rev. Stat. §§49-14,103.01 through 49-14,103.03 shall be guilty of a Class III misdemeanor. Any officer who negligently violates Neb. Rev. Stat. §§49-14,103.01 through 49-14,103.03 shall be guilty of a Class V misdemeanor.

J. The village may enact ordinances exempting from the provisions of this section contracts involving \$100.00 or less in which an officer of such village may have an interest.

K. No officer shall receive any pay or perquisites from the village other than his or her salary. The Village Board shall not pay or appropriate any money or other valuable thing to pay a person who is not an officer for the performance of any act, service, or duty which shall come within the proper scope of the duties of any officer of the village.

(Neb. Rev. Stat. §§17-611, 18-305 through 18-312, 49-1408, 49-1425, 49-14,103.01 through 49-14,103.03, 49-14,103.06)

**SECTION 1-107: EXAMINATION AND DUPLICATION OF PUBLIC RECORDS;
FEES; CONFIDENTIAL RECORDS**

All citizens of the village and all other persons interested in the examination of the public records of the village are fully empowered and authorized to examine such records and make memoranda copies thereof as provided in Neb. Rev. Stat. §84-712. Payment of fees may be required. Records which may be withheld from the public shall be as stated in Neb. Rev. Stat. §84-712.05. (Neb. Rev. Stat. §§84-712, 84-712.03 through 84-712.06)

Article 2 – Village Board

SECTION 1-201: POWERS AND DUTIES

A. The Village Board shall have the power to pass ordinances, to prevent and remove nuisances, to restrain and prohibit gambling, to provide for licensing and regulating theatrical and other amusements, to prevent the introduction and spread of contagious diseases, to establish and regulate markets, to erect and repair bridges, to provide for the inspection of building materials to be used or offered for sale, to govern the planting and protection of shade trees in the streets and the building of structures projecting upon or over and adjoining and all excavations through and under the sidewalks, and in addition to the special powers herein conferred and granted, to maintain the peace, good government, and welfare of the village and its trade, commerce, and manufactories; and to enforce all ordinances by inflicting penalties upon inhabitants or other persons for violation thereof.

B. The village has the power and authority by ordinance to define, regulate, suppress, and prevent nuisances, to declare what constitutes a nuisance, and to abate and remove the same, enforcing all ordinances by inflicting penalties upon inhabitants or other persons for violation thereof. The village may exercise such power and authority within its zoning jurisdiction.
(Neb. Rev. Stat. §§17-207, 17-505, 18-1720)

SECTION 1-202: NUMBER AND QUALIFICATIONS

The Village Board of Trustees shall consist of five members. Any person who is a citizen of the United States, a resident of the village at the time of his or her election and a registered voter is eligible to be elected to the board. Every trustee so elected and so qualified shall hold his or her office for a term of four years; provided, a trustee's term shall expire and the office will become vacant upon moving from the village. (Neb. Rev. Stat. §§17-202, 17-203) (Am. Ord. No. 96-310, 2/12/96)

SECTION 1-203: VACANCY

A. Any vacancy on the Village Board shall be filled as provided below.

B. Except as otherwise provided in subsection (D) or (E) of this section, vacancies in village elected offices shall be filled by the chairman and board for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the board at a regular or special meeting and shall appear as a part of the minutes of such meeting. The board shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the village or by posting in three public places in the village the office vacated and the length of the unexpired term.

C. The chairman shall call a special meeting of the board or place the issue of

filling such vacancy on the agenda at the next regular meeting, at which time the chairman shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term. The regular or special meeting shall occur upon the death of the incumbent or within four weeks after the meeting at which such notice of vacancy has been presented. The board shall vote upon such nominee and if a majority votes in favor of such nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the chairman shall at the next regular or special meeting submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive a majority of the votes, the chairman shall continue at such meeting to submit the names of qualified registered voters in nomination and the board shall continue to vote upon such nominations at such meeting until the vacancy is filled. The chairman shall cast his or her vote for or against the nominee in the case of a tie vote of the board. Every board member present shall cast a ballot for or against the nominee. Any member of the board who has been appointed to fill a vacancy on the board shall have the same rights, including voting, as if such person were elected.

D. The chairman and board may, in lieu of filling a vacancy in a village elected office as provided in subsections (B) and (C) of this section, call a special village election to fill such vacancy.

E. If vacancies exist in the offices of one-half or more of the members of the Village Board, the secretary of state shall conduct a special village election to fill such vacancies.

F. No official who is removed at a recall election or resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal or the removal of any other member of the same Village Board during the remainder of his or her term of office.

(Neb. Rev. Stat. §§32-568, 32-569, 32-1308)

SECTION 1-204: VACANCY DUE TO UNEXCUSED ABSENCES

A vacancy on the Village Board shall exist if a member is absent from more than five consecutive regular meetings unless the absences are excused by a majority vote of the remaining members. (Neb. Rev. Stat. §19-3101)

SECTION 1-205: CHAIRMAN; SELECTION AND DUTIES

The Village Board chairman shall be selected at the first regular meeting of the board in December by the members from their own membership. The chairman shall preside at all meetings of the board. In the absence of the chairman, the Village Board shall elect one of its members to occupy the position temporarily, who shall hold the title of chairman *pro tempore*. The chairman and the chairman *pro tempore* shall have the same powers and privileges as other board members. The chairman shall cause all ordinances of the board to be printed and published for the information of the inhabitants. The chairman shall also perform all duties of his or her office in accordance with

state laws and village ordinances. The qualifications for the chairman shall be the same general qualifications that apply to the members of the Village Board. (Neb. Rev. Stat. §§17-203, 17-204, 17-210) (Am. Ord. No. 96-307, 2/12/96)

SECTION 1-206: MEETINGS; DEFINED

“Meetings” shall mean all regular, special, or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action. (Neb. Rev. Stat. §84-1409[2])

SECTION 1-207: MEETINGS; PUBLIC BODY; DEFINED

“Public body” as used in this article shall mean (A) the Village Board; (B) all independent boards, commissions, bureaus, committees, councils, sub-units, or any other bodies now or hereafter created by Constitution, statute, ordinance, or otherwise pursuant to law; and (C) advisory committees of the bodies listed. This section shall not apply to subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent bodies. (Neb. Rev. Stat. §84-1409[1])

SECTION 1-208: MEETINGS; NOTICE; AGENDA

A. All meetings shall be held in the public building in which the board usually holds such meetings unless the publicized notice shall designate some other public building or other specified place. The Village Board shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by the board and recorded in its minutes. Such notice shall be transmitted to all board members and to the public. Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the village office during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting.

B. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours before the scheduled commencement of the meeting or 48 hours before the scheduled commencement of a meeting of the Village Board scheduled outside the corporate limits of the village. The board shall have the right to modify the agenda to include items of an emergency nature only at such public meetings. (Neb. Rev. Stat. §84-1411[1])

SECTION 1-209: MEETINGS; RIGHTS OF THE PUBLIC

A. The formation of public policy is public business and may not be conducted in secret. Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act. At least one current copy of the Open Meetings

Act shall be posted in the meeting room at a location accessible to members of the public. At the beginning of each meeting, the public shall be informed about the location of the posted information.

B. Subject to the Open Meetings Act, the public shall have the right to attend and the right to speak at meetings of public bodies. All or any part of a meeting of the Village Board except for closed meetings called pursuant to Section 1-218 may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

C. It shall not be a violation of this section for the Village Board to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. The board may not be required to allow citizens to speak at each meeting but it may not forbid public participation at all meetings.

D. The board shall not require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The board may require any member of the public desiring to address the body to identify himself or herself.

E. The board shall not, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience. The board shall not be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

F. The board shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting and shall make available at the meeting, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting.

(Neb. Rev. Stat. §§84-1408, 84-1412, 84-1414)

SECTION 1-210: MEETINGS; NOTICE TO NEWS MEDIA

The village clerk shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed. (Neb. Rev. Stat. §84-1411[4])

SECTION 1-211: MEETINGS; PLACE, DAY, TIME; QUORUM

The regular meetings of the Village Board shall be held on the second Monday of each month at 7:00 p.m. at the village hall or in such other place in the village as the chairman and board shall designate. At all meetings of the Village Board, a majority of the

members shall constitute a quorum for the transaction of business. At the hour appointed for the meeting, the village clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the board shall be called to order by the chairman. In the absence of the chairman, the meetings shall be called to order by the chairman *pro tempore*. (Neb. Rev. Stat. §§17-204, 17-205)

SECTION 1-212: MEETINGS; SPECIAL

Special meetings may be called by the chairman or by a majority of the Village Board, the object of which shall be submitted to the board in writing. The call and object as well as the disposition thereof shall be entered upon the journal by the village clerk. On filing the call for a special meeting, the village clerk shall notify the board members of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a board member known to be out of the state or physically unable to be present. (Neb. Rev. Stat. §§17-204, 17-205)

SECTION 1-213: MEETINGS; REORGANIZATIONAL; STANDING COMMITTEES

A. All trustees elected to office shall qualify and meet on the first regular meeting of the Village Board in December in each election year immediately after the prior board adjourns. They shall organize, elect a chairman, and appoint the officers required by law. Every trustee, before entering upon the duties of his or her office, shall take an oath to support the Constitution of the United States and the Constitution of Nebraska and faithfully and impartially to discharge the duties of his or her office. The chairman shall nominate his or her candidates for appointive offices and said officers shall hold office until their successors are duly appointed and qualified. The regular order of business shall then proceed.

B. At the reorganizational meeting, the chairman shall appoint members to such standing committees as the board may create by ordinance or resolution. The membership of such committees may be changed at any time by the chairman, who shall be an *ex officio* member of each standing committee. The members of the committees shall serve terms of office of one year unless reappointed.
(Neb. Rev. Stat. §17-204) (Am. Ord. Nos. 96-308, 2/12/96; 96-310, 2/12/96)

SECTION 1-214: MEETINGS; ORDER OF BUSINESS

Promptly at the hour set by law on the day of each regular meeting, the members of the Village Board, the village clerk, and such other village officials as may be required shall take their regular stations in the meeting place and the business of the village shall be taken up for consideration and disposition in the manner prescribed by the official agenda on file at the office of the village clerk.

SECTION 1-215: MEETINGS; PARLIAMENTARY PROCEDURE

Questions of procedure and conduct at Village Board meetings shall be decided by the chairman in accordance with *Robert's Rules of Order*.

SECTION 1-216: MEETINGS; VOTES

A. Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the board in open session, and the record shall state how each member voted or if the member was absent or not voting. The vote to elect leadership within the Village Board may be taken by secret ballot but the total number of votes for each candidate shall be recorded in the minutes.

B. On the passage or adoption of every bylaw or ordinance and every resolution or order to enter into a contract by the board, the yeas and nays shall be called and recorded. To pass or adopt any bylaw, any ordinance, or any such resolution or order, a concurrence of a majority of the village board shall be required. All appointments of the officers by the village board shall be made *viva voce* and the concurrence of a like majority shall be required; and the names of those and for whom they voted, on the vote resulting in an appointment, shall be recorded.

(Neb. Rev. Stat. §§17-616. 84-1413)

SECTION 1-217: MEETINGS; MINUTES

A. The Village Board shall cause minutes to be kept of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

B. Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session and the record shall state how each member voted or if the member was absent or not voting. The vote to elect leadership within a public body may be taken by secret ballot but the total number of votes for each candidate shall be recorded in the minutes.

C. The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours. The minutes of any meeting of the Village Board shall be written and available for public inspection within ten working days of the meeting or prior to the next convened meeting, whichever occurs earlier, except that the village clerk may have an additional ten working days if absent due to a serious illness or emergency.

(Neb. Rev. Stat. §§17-206; 84-1413)

SECTION 1-218: MEETINGS; CLOSED SESSIONS

A. The Village Board may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

1. Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;
2. Discussion regarding deployment of security personnel or devices;
3. Investigative proceedings regarding allegations of criminal misconduct; or
4. Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting.

B. Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to the board.

C. The vote to hold a closed session shall be taken in open session. The vote of each member on the question of holding a closed session, the reason for the closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The Village Board shall restrict its consideration to matters during the closed portions to only those purposes set forth in the minutes as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, "formal action" shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by board members to legal counsel or other negotiators in closed sessions authorized under subsection (A) of this section.

D. Any Village Board member shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (1) the protection of the public interest or (2) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the board members. Such challenge and its disposition shall be recorded in the minutes.

E. Nothing in this section shall be construed to require that any meeting be closed to the public. The Village Board shall not fail to invite a portion of its members to a meeting and the board shall not designate itself a subcommittee of the whole body for the purpose of circumventing the provisions of this article. No closed session, informal meeting, chance meeting, social gathering, or electronic communication shall be used for the purpose of circumventing the provisions of this article.

F. The provisions of this article shall not apply to chance meetings or to attend-

ance at or travel to conventions or workshops of the board members at which there is no meeting of the board then intentionally convened, if there is no vote or other action taken regarding any matter over which the board has supervision, control, jurisdiction, or advisory power.

(Neb. Rev. Stat. §84-1410) (Am. Ord. No. 95-288, 2/13/95)

SECTION 1-219: MEETINGS; EMERGENCY

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of Section 1-210 (Notice to News Media) shall be complied with in conducting emergency meetings. Complete minutes of any such emergency meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day. (Neb. Rev. Stat. §84-1411)

SECTION 1-220: MEETINGS; VIDEOCONFERENCING

A. A meeting of an organization created under the Interlocal Cooperation Act or the Municipal Cooperative Financing Act or of the governing body of a risk management pool or advisory committee organized in accordance with the Intergovernmental Risk Management Act may be held by means of videoconferencing if:

1. Reasonable advance publicized notice is given;
2. Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing was not used;
3. At least one copy of all documents being considered is available to the public at each site of the videoconference;
4. At least one member of the governing body or advisory committee is present at each site of the videoconference; and
5. No more than one-half of the governing body's or advisory committee's meetings in a calendar year are held by videoconference.

Videoconferencing shall not be used to circumvent any of the public government purposes established in this article.

B. For purposes of this section, "videoconferencing" shall mean conducting a meeting involving participants at two or more locations through the use of audio-video

equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations.

(Neb. Rev. Stat. §§84-1409, 84-1411) (Ord. No. 98-346, 1/12/98)

Article 3 – Ordinances, Resolutions and Motions

SECTION 1-301: GRANT OF POWER

The Village Board shall have the responsibility of making all ordinances, bylaws, rules, regulations, and resolutions not inconsistent with state laws as may be necessary and proper for maintaining the peace, good government, and welfare of the village and its trade, commerce, and manufactories and to enforce all ordinances by inflicting fines or penalties for the breach thereof. (Neb. Rev. Stat. §17-505) (Am. Ord. No. 98-347, 1/12/98)

SECTION 1-302: ORDINANCES; TITLE; STYLE

A. No ordinance shall contain a subject not clearly expressed in its title.

B. The style of all village ordinances shall be: "Be it ordained by the Chairman and Board of Trustees of the Village of Fairmont, Nebraska..."
(Neb. Rev. Stat. §17-613)

SECTION 1-303: ORDINANCES; AMENDMENTS AND REVISIONS

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended shall be repealed, except that an ordinance revising all the ordinances of the village and modifications to zoning building districts may be adopted as otherwise provided by law. (Neb. Rev. Stat. §17-614) (Am. Ord. No. 98-352, 1/12/98)

SECTION 1-304: ORDINANCES; INTRODUCTION

Ordinances shall be introduced in either of the following ways:

A. With the recognition of the chairman, a board member may, in the presence and hearing of a majority of the Village Board, read aloud the substance of his or her proposed ordinance and file a copy of the same with the village clerk for future consideration; or

B. With the recognition of the chairman, a board member may present his or her proposed ordinance to the clerk who, in the presence and hearing of a majority of the board, shall read aloud the substance of the same and shall file the same for future consideration.
(Neb. Rev. Stat. §§17-614, 17-616) (Am. Ord. No. 98-348, 1/12/98)

SECTION 1-305: RESOLUTIONS AND MOTIONS; INTRODUCTION

Resolutions and motions shall be introduced in one of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly read one time in the presence and hearing of a majority of the Village Board. The issues

raised by said resolutions or motions shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the board. The vote on any resolution or motion shall be by roll call vote.

SECTION 1-306: READING AND PASSAGE

Ordinances, resolutions, or orders for the appropriation of money shall require for their adoption a concurrence of the majority of the Village Board. Ordinances of a general or permanent nature shall be read by the title on three different days unless three-fourths of the board votes to suspend this requirement, except that such requirement shall not be suspended for any ordinance for the annexation of territory. In case such requirement is suspended, the ordinance shall be read by title and then moved for final passage. Three-fourths of the board may require any ordinance to be read in full before final passage under either process. (Neb. Rev. Stat. §17-614)

SECTION 1-307: ORDINANCES; PUBLICATION OR POSTING; CERTIFICATE; PAMPHLET FORM

A. All ordinances of a general nature shall be published one time within 15 days after passage (1) in a newspaper published in the village or, if no paper is published in the village, then by (2) posting a written or printed copy thereof in each of three public places in the village, or (3) in book or pamphlet form.

B. When an ordinance is printed in book or pamphlet form, purporting to be published by authority of the Village Board, the same need not be otherwise published and such book or pamphlet shall be received as evidence of the passage and legal publication of such ordinance as of the date mentioned in such book or pamphlet.

C. The passage, approval, and publication or posting of all ordinances shall be sufficiently proven by a certificate under the seal of the village from the village clerk, showing that the said ordinance was passed and approved, when and in what paper the same was published or when, by whom, and where the same was posted.
(Neb. Rev. Stat. §17-613) (Am. Ord. No. 98-350, 1/12/98)

SECTION 1-308: ORDINANCES; EFFECTIVE DATE; EMERGENCY ORDINANCES

A. All ordinances for the government of the village, adopted by the voters after submission to them by either initiative or referendum petition, shall become immediately effective thereafter; but no ordinance for the government of the village which has been adopted without submission to the voters shall go into effect until 15 days after the passage of such ordinance except as provided in subsection (B) herein.

B. An ordinance passed in the case of riot, infectious or contagious diseases or other impending danger, failure of a public utility, or other emergency requiring its immediate operation shall take effect upon the proclamation of the village chairman and

the posting thereof in at least three of the most public places in the village. Such emergency notice shall recite the emergency, shall be passed by a three-fourths vote of the Village Board, and shall be entered of record upon the village clerk's minutes.

(Neb. Rev. Stat. §§17-613, 19-3701) (Am. Ord. No. 98-351, 1/12/98)

Article 4 – Appointed Officials

SECTION 1-401: APPOINTMENT; GENERAL AUTHORITY

A. The Village Board of Trustees may appoint a Board of Health, village clerk, treasurer, attorney, engineer, overseer of the streets, and chief of police and other such officers as shall be required by ordinance or otherwise required by law. Said officers, except regular police officers, shall hold office for one year unless removed by the village chairman with the advice and consent of the Village Board.

B. The chairman, by and with the consent of the Village Board, shall appoint such a number of regular police officers as may be necessary. All police officers appointed by the chairman and board may be removed, demoted, or suspended at any time by the chairman as provided in Neb. Rev. Stat. §17-107. A police officer, including the chief of police, may appeal to the board such removal, demotion, or suspension with or without pay. After a hearing, the board may uphold, reverse, or modify the action.

(Neb. Rev. Stat. §17-208) (Am. Ord. No. 98-345, 2/12/98)

SECTION 1-402: MERGER OF OFFICES

A. The Village Board may by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except trustee, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time. However, trustees may perform, and upon board approval receive compensation for, seasonal or emergency work subject to Neb. Rev. Stat. §§49-14,103.01 to 49-14,103.06.

B. The offices or employments so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged and combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment, or employments so merged and combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers.

(Neb. Rev. Stat. §§17-209.02, 49-14,103.01 through 49-14,103.06)

SECTION 1-403: CLERK-TREASURER POSITION CREATED

The appointive offices of village clerk and village treasurer have been combined and merged in accordance with the authority granted to the Village Board by Section 1-402. The offices so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary of the officer holding the merged offices shall not be in excess

of the maximum amount provided by law for the salary of the offices so combined.

SECTION 1-404: VILLAGE CLERK

A. The village clerk shall attend the meetings of the Village Board and keep a correct journal of the proceedings of that body. Within 30 days after any board meeting, the clerk shall prepare and publish the official proceedings in a legal newspaper of general circulation in the village and which was duly designated as such by the board. Said publication shall set forth a statement of the proceedings thereof and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item.

B. After the period of time specified by the state records administrator pursuant to Neb. Rev. Stat. §§84-1201 to 84-1220, the clerk may transfer the journal of the board proceedings to the state archives of the Nebraska State Historical Society for permanent preservation.

C. The clerk shall issue and sign all licenses, permits, and occupation tax receipts authorized by law and required by the village ordinances, collect all occupation taxes and license money except where some other village officer is specifically charged with that duty, and keep a register of all licenses granted in the village and the purpose for which they were issued.

D. The clerk shall keep an accurate and complete account of the appropriation of the several funds and draw, sign, and attest all warrants ordered for the payment of money on the particular funds from which the same are payable. At the end of each month the clerk shall make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon.

E. The clerk shall deliver all warrants, ordinances, and resolutions under his or her charge to the chairman for his or her signature. The clerk shall also deliver to officers, employees, and committees all resolutions and communications which are directed to them. With the seal of the village, the clerk shall duly attest the chairman's signature on all ordinances, deeds, and papers required to be attested to.

F. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. The charge for such publication shall not exceed the rates provided by state statutes. Said publication shall be charged against the general fund. The clerk shall then keep in a book with a proper index copies of all notices required to be published or posted by order of the Village Board or under the ordinances of the village. The printer's affidavit of publication shall be attached to each of the file copies of said notices if the said notices are required to be published or the village clerk's certificate under seal where the same are required to be posted only.

G. The clerk shall receive all objections to creation of paving districts and other street improvements. The clerk shall receive the claims of any person against the village. In the event that any of said claims is disallowed in part or in whole, the clerk shall notify such claimant, his or her agent, or attorney by letter within five days after such disallowance and shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

H. The clerk shall keep all village records, including a record of all licenses issued, in a book with a proper index. The clerk shall include as part of the records all petitions under which the Village Board shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions and ordinances relating to the same. The clerk shall endorse the date and hour of filing upon every paper or document so filed in the village office. All such filings shall be properly docketed. Included in the records shall be all standard codes, amendments thereto, and other documents incorporated by reference and arranged in a manner convenient for reference.

I. The clerk shall permit no records, public papers, or other documents of the village kept and preserved in the office to be taken therefrom except by such officers of the village as may be entitled to the use of the same but only upon their leaving a receipt therefor. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records during office hours. The village clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution of the Village Board.

(Neb. Rev. Stat. §§17-605, 19-1102, 84-1201 through 84-1220, 84-712)

SECTION 1-405: VILLAGE TREASURER

A. The treasurer of the village shall be the custodian of all money belonging to the corporation, keeping a separate account of each fund or appropriation and the debts and credits belonging thereto. The treasurer shall give every person paying money into the treasury a receipt therefor, specifying the date of payment and on what account paid. The treasurer shall also file copies of such receipts with his or her monthly reports and shall, at the end of every month and as often as may be required, render an account to the Village Board, under oath, showing the state of the treasury at the date of such account and the balance of money in the treasury. The treasurer shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid, which warrants, with any and all vouchers held, shall be filed with his or her account in the clerk's office. If the treasurer fails to render an account within 20 days after the end of the month or by a later date established by the Village Board, the chairman, with the advice and consent of the board members, may use this failure as cause to remove the treasurer from office.

B. The treasurer shall keep a record of all outstanding bonds against the village, showing the number and amount of each bond, for and to whom the bonds were issued, and the date upon which any bond is purchased, paid, or canceled. The annual statement submitted pursuant to Neb. Rev. Stat. §19-1101 shall be accompanied with

a description of the bonds issued and sold in that year and the terms of sale, with every item of expense thereof.

C. The treasurer shall deposit and at all times keep on deposit for safekeeping in banks, capital stock financial institutions, or qualifying mutual financial institutions of approved and responsible standing all money collected, received, or held as village treasurer. Such deposits shall be subject to all regulations imposed by law or adopted by the Village Board for the receiving and holding thereof. The fact that a stockholder, director, or other officer of such bank, capital stock financial institution, or qualifying mutual financial institution is also serving as a member of the Village Board, as a member of a board of public works, or as any other officer of such municipality shall not disqualify such bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such municipal funds. Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions. Neb. Rev. Stat. §77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

D. The board shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions (1) a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured or guaranteed by the Federal Deposit Insurance Corporation or, in lieu thereof, (2) security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The board shall approve such bond or giving of security. The village treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved.

E. When the treasurer holds funds of the village in excess of the amount required for maintenance or set aside for betterments and improvements, the chairman and Village Board may, by resolution, direct and authorize said treasurer to invest said surplus funds in the outstanding bonds or registered warrants of said village, bonds and debentures issued either singly or collectively by any of the 12 federal land banks, the 12 intermediate credit banks, or the 13 banks for cooperatives under the supervision of the Farm Credit Administration, or in interest-bearing bonds or the obligations of the United States. The interest on such bonds or warrants shall be credited to the fund out of which said bonds or warrants were purchased.

F. The chairman and Village Board may by resolution direct and authorize the treasurer to dispose of the surplus electric light, water, or gas funds or the funds arising from the sale of electric light, water, or natural gas distribution properties by the payment of outstanding electric light, water, or gas distribution bonds or water warrants then due. The excess, if any, after such payments may be transferred to the general fund of the village.

G. It shall be the duty of the treasurer to prepare and publish annually within 60 days following the close of its municipal fiscal year a statement of the receipts and expenditures of funds of the village for the preceding fiscal year. Not more than the legal rate provided for in Neb. Rev. Stat. §33-141 shall be charged and paid for such

publication.

(Neb. Rev. Stat. §§17-606 through 17-609, 19-1101)

SECTION 1-406: VILLAGE ATTORNEY

The village attorney shall be the legal advisor of the Village Board. He or she shall commence, prosecute, and defend all suits and actions necessary to be commenced, prosecuted, or defended on behalf of the village or that may be ordered by the board. When requested, he or she shall attend meetings of the board and give an opinion upon any matters submitted to him or her either orally or in writing. The attorney shall draft or review for legal correctness ordinances, contracts, franchises, and other instruments as may be required and shall perform such other duties as may be imposed by general law or ordinance. The Village Board shall have the right to pay the village attorney compensation for legal services performed by him or her on such terms as the board and attorney may agree and to employ additional legal assistance and to pay for such legal assistance out of the funds of the village. (Neb. Rev. Stat. §17-610)

SECTION 1-407: LAW ENFORCEMENT; CONTRACT WITH COUNTY SHERIFF

A. The village may enter into a contract with the County Board of Fillmore County for police and law enforcement services to be provided by the Fillmore County Sheriff's Office. Whenever any such contract has been entered into, the sheriff or his or her deputies shall, in addition to their other powers and duties, have all the powers and duties of the village police chief within and for the village. One copy of such contract shall be on file at the office of the village clerk, available for public inspection during office hours. (Neb. Rev. Stat. §17-213)

B. If contracted, the county sheriff may be appointed to serve on the Board of Health as secretary and quarantine officer and act as health inspector except in the event the village appoints another person.
(Neb. Rev. Stat. §§17-208, 17-213, 19-3801)

SECTION 1-408: POLICE; POWERS AND DUTIES

A. The Police Department shall consist of the chief of police and such further number of regular police officers as may be appointed. The chief of police shall, subject to the direction of the chairman, direct the police work of the village and shall be responsible for the maintenance of law, order, peace and safety. He or she shall file the necessary complaints in cases arising out of violations of village ordinances and shall make all necessary reports required by the ordinances or state laws. The chief shall have control and management of all matters relating to the Police Department and its officers and members and shall have the custody and control of all property and books belonging to the department.

B. The department shall execute and enforce all laws and also the orders of the chairman. It shall be the duty of the department to protect the rights of persons and property and execute, or cause to be executed, all processes issued and shall cause

all persons arrested to be brought before the proper court for trial as speedily as possible. Village police officers shall have full power and authority to call on any person whenever necessary to assist them in performing public duties and failure, neglect or refusal to render such assistance shall be deemed an offense.

C. The village police, whether regular or special, shall have the power to arrest all offenders against the laws of the state or the village and keep the said offenders in the village jail or some other place to prevent their escape until trial can be held before the proper official. Every village police officer shall be expected to be conversant with and knowledgeable of the village and state laws. No law enforcement official shall have any interest in any establishment having a liquor license. Village police shall have the duty to file such complaints and reports as may be required by village ordinances and state laws.

D. Village police who shall purposely and willfully fail, neglect, or refuse to make an arrest or purposely and willfully fail to make a complaint after an arrest is made shall be charged with a misdemeanor and upon conviction shall be fined. It shall be unlawful for the Village Board to retain any village police officer in such position upon conviction of any Class I misdemeanor, Class W misdemeanor, or any felony violation of the United States, the State of Nebraska, or any other comparable offenses of any other jurisdiction.

E. It shall be the duty of every village police officer making a lawful arrest to search all persons in the presence of some other person whenever possible and shall carefully keep and produce to the proper judicial official upon the trial everything found upon the person of such prisoners. All personal effects so taken from prisoners aforesaid shall be restored to them upon their release.

F. Suitable uniforms and badges shall be furnished to the village police by the village. Any member who shall lose or destroy the same shall be required to pay the replacement costs and in the event that any member shall leave the force, he or she shall immediately deliver his or her badge to the village police chief. The Village Board may from time to time provide the village police with such equipment and transportation as may be essential in the performance of their official duties.

(Neb. Rev. Stat. §§17-107, 17-118, 17-124, 17-213)

SECTION 1-409: FIRE CHIEF

The duties of the fire chief shall be as provided in Chapter 8, Section 8-103.

SECTION 1-410: SPECIAL ENGINEER

The Village Board may employ a special engineer to make any particular estimate, survey, or other work. He or she shall make a record of the minutes of his or her surveys and all other work done for the village. When directed by the board, he or she shall accurately make all plats, sections, profiles, and maps as may be necessary in the judgment of the board. He or she shall, upon request, make estimates of the costs

of labor and material which may be done or furnished by contract with the village and make all surveys, estimates, and calculations necessary for the establishment of grades, bridges, or culverts and for the building, constructing, or repairing of any public improvement of the village. All records of the special engineer shall be public records which shall belong to the village and shall be turned over to his or her successor. He or she shall, when directed by the Village Board, inspect all works of public improvement and if found to be properly done, shall accept the same and report his or her acceptance to the board. He or she shall estimate the cost of all proposed village utilities and public improvements, together with any extensions thereof which the board may propose to construct or improve. (Neb. Rev. Stat. §§18-3301, 17-568, 17-568.01, 17-919)

SECTION 1-411: MAINTENANCE SUPERINTENDENT

A utilities superintendent shall be appointed in the event that there is more than one municipal utility and the Village Board determines that it is in the best interest of the village to appoint one official to have the immediate control over all the said utilities. The utilities superintendent, also known as the maintenance superintendent, shall have the general management and control of the following village utilities, subject to the supervision of the Village Board, and shall have such other duties as prescribed by the board:

Water, Sewer, and Power

The maintenance superintendent shall have general supervision and control over the village water, sewer, and electrical systems and shall be primarily responsible for their economic operation and prudent management. The superintendent shall have the general control and supervisory authority over all employees of the water, sewer, and electrical systems which the Village Board may from time to time hire to operate and maintain the said systems. He or she shall make a detailed report regularly to the board of the condition of the said water, sewer, and electrical systems, which shall show the amount of receipts and expenditures on account thereof for the preceding report period. The superintendent shall recommend such improvements, repairs, extensions and additional employees as he or she may think proper, along with an estimate of the costs thereof. No money shall be expended for improvements, repairs, or extensions of the said water, sewer, and electrical systems except upon the recommendation of the superintendent. (Neb. Rev. Stat. §§17-541, 17-543; 17-902 through 17-904, 17-906, 17-909, 18-501)

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In addition to the above utilities, the maintenance superintendent shall, subject to the orders and directives of the Village Board, have general charge, direction, and control of all work on the streets, sidewalks, culverts, and bridges of the village. It shall be his or her responsibility to see that gutters and drains therein function properly and that the same are kept in good repair. At the request of the board he or she shall make a detailed report on the condition of the streets, sidewalks, culverts, alleys, and bridges of the village and shall direct its attention to such improvements, repairs, extensions, additions, and additional employees as he or she may believe are needed to maintain

a satisfactory street system in the village, along with an estimate of the cost thereof. He or she shall perform such other duties as the board may require. (Neb. Rev. Stat. §§17-119, 17-214)

Parks

The maintenance superintendent shall have the responsibility for the management and operation of the municipal parks, subject to the general control and directives of the Village Board. At least every six months, he or she shall make a detailed report to the board on the condition of the municipal parks and shall direct its attention to such improvements, repairs, and other items as he or she may believe are needed, along with an estimate of the cost thereof. He or she shall have such other duties as the board may delegate. (Neb. Rev. Stat. §§17-214, 17-541, 17-543)

SECTION 1-412: CIVIL DEFENSE DIRECTOR

Pursuant to Neb. Rev. Stat. Chapter 81, Article 8, the Village Board may appoint a civil defense director to establish and implement a civil defense organization in accordance with the state civil defense plan and program. The term of office shall be for one year, unless sooner removed by the chairman with the advice and consent of the Village Board. (Neb. Rev. Stat. §§17-604. 8-829.46)

SECTION 1-413: NURSING HOME ADMINISTRATOR

The chairman, with the advice and consent of the Village Board, may appoint a nursing home administrator, who shall have the responsibility for the management and operation of the municipal nursing home, Fairview Manor. Said administrator may be removed by the chairman with advice and consent of the Village Board; and any vacancy occurring in the said office by death, resignation or removal shall be filled in the manner herein provided for the appointment of village officials. (Neb. Rev. Stat. §17-604)

SECTION 1-414: BUILDING INSPECTOR

The Village Board may contract with a building inspector on a need basis to conduct surveys and make inspections in any area of the village to determine whether all buildings and structures are in compliance with municipal ordinances. The building inspector shall have the duty of enforcing all building and housing regulations as herein prescribed. He or she shall have the authority to carry out the duties as stated in Chapter 3, Article 5 (Dangerous Buildings) and in Chapter 9 (Building Regulations).

Article 5 – Fiscal Management

SECTION 1-501: FISCAL YEAR

The fiscal year of the village and any public utility of the village commences on October 1 and extends through the following September 30 except as provided in the Village Proprietary Function Act. (Neb. Rev. Stat. §17-701) (Am. Ord. No. 96-313, 2/12/96)

SECTION 1-502: PUBLIC FUNDS DEFINED

“Public funds” shall mean all money, including non-tax money used in the operation and functions of governing bodies. For purposes of a village which has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the village from a licensed lottery operator shall be considered public funds, and public funds shall not include amounts awarded as prizes. (Neb. Rev. Stat. §13-503) (Ord. No. 95-290, 2/13/95)

SECTION 1-503: DEPOSIT OF FUNDS

A. The village treasurer shall deposit and at all times keep on deposit for safekeeping in banks, capital stock financial institutions, or qualifying mutual financial institutions of approved and responsible standing all money collected, received, or held by him or her as village treasurer. Such deposits shall be subject to all regulations imposed by law or adopted by the Village Board for the receiving and holding thereof. The fact that a stockholder, director, or other officer of such bank, capital stock financial institution, or qualifying mutual financial institution is also serving as a member of the Village Board, or as any other officer of the village shall not disqualify such bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such village funds.

B. The Village Board shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions (1) a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or, in lieu thereof, (2) security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The board shall approve such bond or giving of security. The village treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved.

C. The insurance afforded to depositors in banks, capital stock financial institutions, or qualifying mutual financial institutions through the Federal Deposit Insurance Corporation shall be deemed and construed to be a surety bond to the extent that the deposits are insured by such corporation and for deposits so insured, no other surety bond or other security shall be required.

D. Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial

institutions. Neb. Rev. Stat. §77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

(Neb. Rev. Stat. §§17-607, 77-2362 through 77-2364)

SECTION 1-504: INVESTMENT OF FUNDS

A. Investment of Surplus; Securities Authorized. Whenever the village has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the Village Board may invest any such surplus in excess of current needs or such excess in its sinking fund in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made.

B. Interest-Bearing Deposits; Conditions. Notwithstanding any other provision of law, to the extent that the funds of the village may be invested or deposited by the village treasurer in certificates of deposit or time interest-bearing deposits with banks, capital stock financial institutions, or qualifying mutual financial institutions, such authorization may include the investment or deposit of funds in certificates of deposit and time interest-bearing deposits in accordance with the following conditions as an alternative to the furnishing of securities or the providing of a deposit guaranty bond pursuant to the Public Funds Deposit Security Act:

1. The bank, capital stock financial institution, or qualifying mutual financial institution in this state through which the investment or deposit of funds is initially made arranges for the deposit of a portion or all of such funds in one or more certificates of deposit or time interest-bearing deposits with other banks, capital stock financial institutions, or qualifying mutual financial institutions located in the United States;
2. Each such certificate of deposit or time interest-bearing deposit is fully insured or guaranteed by the Federal Deposit Insurance Corporation;
3. The bank, capital stock financial institution, or qualifying mutual financial institution through which the investment or deposit of funds was initially made acts as a custodian for the village with respect to any such certificate of deposit or time interest-bearing deposit issued for the account of the village.

C. State Investment Officer. The state investment officer may provide assistance and furnish advice on the investment of money to the village whenever such advice is requested. In connection with the rendering of such service, the state investment officer may charge and collect any fee he or she determines to be reasonable.

(Neb. Rev. Stat. §§17-608, 17-609, 72-1259, 77-2341, 77-2365.02)

SECTION 1-505: CREDIT CARDS; AUTHORITY TO ACCEPT

A. The Village Board may authorize village officials to accept credit cards, charge cards, or debit cards as a method of cash payment of any tax, levy, excise, duty, custom, toll, interest, penalty, fine, license, fee, or assessment of whatever kind or nature, whether general or special, as provided by Neb. Rev. Stat. §77-1702.

B. The total amount of such taxes, levies, excises, duties, customs, tolls, interest, penalties, fines, licenses, fees, or assessments of whatever kind or nature, whether general or special, paid for by credit card shall be collected by the village official.

C. The Village Board may choose to accept credit cards, charge cards, or debit cards as a means of cash payment to any facility it operates in a proprietary capacity and may adjust the price for services to reflect the handling and payment costs.

D. The village official shall, for each transaction, obtain authorization for use of any credit card, charge card, or debit card used pursuant to this section from the financial institution, vending service company, credit card or charge card company, or third-party merchant bank providing such service.

E. The Village Board may choose to accept the types of credit cards, charge cards, or debit cards accepted by and the services provided to the state pursuant to the contract entered into by the state with one or more credit card, charge card, or debit card companies or third-party merchant banks for services on behalf of the state and those political subdivisions that choose to participate in the state contract. The board may choose not to participate in the state contract and may choose types of credit cards, charge cards, and debit cards and may negotiate and contract independently or collectively as a governmental entity with one or more financial institutions, vending service companies, credit card, charge card, or debit card companies or third-party merchant banks for the provision of such services.

F. When authorizing acceptance of credit card or charge card payments, the Village Board shall be authorized but not required to impose a surcharge or convenience fee upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to the village. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to the village by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of such surcharge or convenience fee shall be deemed voluntary by such person and shall be in no case refundable.

G. If payment is made electronically by credit card, charge card, debit card, or electronic funds transfer as part of a system for providing or retrieving information elec-

tronically, the village shall be authorized but not required to impose an additional surcharge or convenience fee upon the person making a payment. "Electronic funds transfer" shall mean the movement of funds by non-paper means, usually through a payment system, including, but not limited to, an automated clearinghouse or the Federal Reserve's Fedwire system.

(Neb. Rev. Stat. §13-609)

SECTION 1-506: DEBT COLLECTION; AUTHORITY TO CONTRACT WITH COLLECTION AGENCY

A. The village may contract to retain a collection agency, licensed pursuant to Neb. Rev. Stat. §§45-601 to 45-622, within or without this state for the purpose of collecting public debts owed by any person to the village. No debt owed pursuant to this subsection (A) may be assigned to a collection agency unless (1) there has been an attempt to advise the debtor by first-class mail, postage prepaid, at his or her last known address, of the existence of the debt and that the debt may be assigned to a collection agency for collection if the debt is not paid; and (2) at least 30 days have elapsed from the time the notice was sent. A collection agency which is assigned a debt under this section shall have only those remedies and powers which would be available to it as an assignee of a private creditor.

B. For purposes of this section, "debt" shall include all delinquent fees or payments except delinquent property taxes or real estate. In the case of debt arising as a result of an order or judgment of a court in a criminal or traffic matter, a collection fee may be added to the debt. The collection fee shall be \$25.00 or 4½% of the debt, whichever is greater. The collection fee shall be paid by the person who owes the debt directly to the person or agency providing the collection service.

(Neb. Rev. Stat. §45-623)

SECTION 1-507: CLAIMS

A. All liquidated and unliquidated claims and accounts payable against the village shall be presented in writing; state the name and address of the claimant and the amount of the claim; and fully and accurately identify the items or services for which payment is claimed or the time, place, nature and circumstances giving rise to the claim. As a condition precedent to maintaining an action for a claim, other than a tort claim as defined in Neb. Rev. Stat. §13-903, the claimant shall file such claim within 90 days of the accrual of the claim in the office of the village clerk. The clerk shall notify the claimant or his or her agent or attorney by letter mailed to the claimant's address within five days if the claim is disallowed by the Village Board.

B. No costs shall be recovered against the village in any action brought against it for an unliquidated claim which has not been presented to the Village Board to be audited nor upon claims allowed in part, unless the recovery shall be for a greater sum than the amount allowed, with the interest due. No order or warrant shall be drawn in excess of 85% of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the village treasury for the appropriate fund against which

it is to be drawn; provided, in the event there exist obligated funds from the federal and/or state government for the general purpose of such warrant, then such warrant may be drawn in excess of 85% but not more than 100% of the current levy for the purpose for which said warrant is drawn.

(Neb. Rev. Stat. §§17-714, 17-715)

SECTION 1-508: WARRANTS

All warrants drawn upon the village treasury must be signed by the chairman of the Village Board and countersigned by the village clerk, stating the particular fund to which the warrant is chargeable, the person to whom it is payable, and the purpose of the expenditure. No money shall be otherwise paid than upon warrants so drawn. Each warrant shall specify the amount included of such fund. (Neb. Rev. Stat. §17-711)

SECTION 1-509: EXPENDITURES

No village official shall have the power to appropriate, issue or draw any order or warrant on the village treasury for money unless the same has been appropriated or ordered by ordinance, or the claim for the payment of such order or warrant has been allowed according to the provisions of Neb. Rev. Stat. §§17-714 and 17-715, and funds for the class or object out of which such claim is payable have been included in the adopted budget statement or transferred according to law. (Neb. Rev. Stat. §17-708)

SECTION 1-510: BOND ISSUES

After meeting all the requirements of state law, the Village Board may issue bonds, fund bonds, and retire bonds for such purposes as may be permitted by state law. The board shall have the authority to levy special assessments for the payment of interest and principal on such bonds and may spread the payments up to the maximum number of years permitted by state law. (Neb. Rev. Stat. §§10-209 through 10-411, 10-601 through 10-612, 12-1001, 17-529.01, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 23-3513, 39-836)

SECTION 1-511: SINKING FUNDS; GIFTS OF MONEY OR PROPERTY

A. The village is hereby empowered to receive money or property by donation, bequest, gift, devise, or otherwise for the benefit of any one or more of the public purposes for which sinking funds are established by the provisions of this section, as stipulated by the donor. The title to the money or property so donated shall vest in the Village Board or in its successors in office, who shall become the owners thereof in trust to the uses of the sinking fund or funds; provided, if the donation is real estate, the board may manage the same as in the case of real estate donated to the village for village library purposes under the provisions of Neb. Rev. Stat. §§51-215 and 51-216.

B. The Village Board, subject to all the limitations set forth in this section, shall have the power to levy a tax of not to exceed \$0.105 on each \$100.00 in any one year

upon the taxable value of all the taxable property within the village for a term not to exceed ten years, in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the village, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, original equipment, or repair, not including maintenance, of any one or more of the following public improvements, including acquisition of any land incident to the making thereof: village library; village auditorium or community house for social or recreational purposes; village hall; village public library, auditorium, or community house in a single building; village swimming pool and appurtenances thereto; village jail; village building to house equipment or personnel of a fire department, together with firefighting equipment or apparatus; village park; village cemetery; village medical clinic building, together with furnishings and equipment; or village hospital. The village shall not be authorized to levy the tax or to establish the sinking fund as provided in this subsection if, having bonded indebtedness, such village has been in default in the payment of interest thereon or principal thereof for a period of ten years prior to the date of the passage of the resolution providing for the submission of the proposition for establishment of the sinking fund as required in subsection (C).

C. Before any sinking fund or funds are established or before any annual tax is levied for any such planned village improvement mentioned in subsection (B) by the village, the Village Board shall declare its purpose by resolution to submit to the qualified electors of the village at the next general village election the proposition to provide the village with the specific municipal improvement planned for consummation under this section. The resolution of submission shall, among other things, set forth a clear description of the improvement planned, the estimated cost according to the prevailing costs, the amount of annual levy over a definite period of years, not exceeding ten years, required to provide such cost, and the specific name or designation for the sinking fund sought to be established to carry out the planned improvement, together with a statement of the proposition for placement upon the ballot at such election. Notice of the submission of the proposition, together with a copy of the official ballot containing the same, shall be published in its entirety three successive weeks before the day of the election in a legal newspaper published in the village.

D. No such sinking fund shall be established unless the same has been authorized by a majority or more of the legal votes of the village cast for or against the proposition. If less than a majority of the legal votes favor the establishment of the sinking fund, the planned improvement shall not be made, no annual tax shall be levied therefor, and no sinking fund(s) shall be established in connection therewith, but such resolution of submission shall immediately be repealed. If the proposition shall carry at such election in the manner prescribed in this subsection, the Village Board and its successors in office shall proceed to do all things authorized under such resolution of submission but never inconsistent with this section. Provisions of the statutes of the state relating to election of officers, voting places, election apparatus and blanks, preparation and form of ballots, information to voters, delivery of ballots, conduct of elections, manner of voting, counting of votes, records and certificates of elections, and recounts of votes, so far as applicable, shall apply to voting on the proposition under

this section.

E. All funds received by the village treasurer, by donation or by tax levy, as hereinbefore provided, shall be immediately invested by the treasurer as they accumulate, with the written approval of the Village Board, in the manner provided in Neb. Rev. Stat. §77-2341. Whenever investments of such sinking fund or funds are made as aforesaid, the nature and character of the same shall be reported to the board and the investment report shall be made a matter of record by the village clerk in the proceedings of the board. The sinking fund(s) accumulated under the provisions of this section shall constitute a special fund for the purpose for which the same was authorized and shall not be used for any other purpose unless authorized by 60% of the qualified electors of the village voting at a general election favoring such change in the use of the sinking fund; provided, the question of the change in the use of the sinking fund, when it fails to carry, shall not be resubmitted in substance for a period of one year from and after the date of such election.

(Neb. Rev. Stat. §§19-1301 through 19-1304, 77-2337, 77-2339)

SECTION 1-512: COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE

A. The village shall collect the special assessments which it levies and perform all other necessary functions related thereto including foreclosure. Notice that special assessments are due shall be mailed or otherwise delivered to the last known address of the person against whom such special assessments are assessed or to the lending institution or other party responsible for paying such special assessments. Failure to receive such notice shall not relieve the taxpayer from any liability to pay such special assessments and any interest or penalties accrued thereon.

B. The village shall:

1. File notice of the assessments and the amount of assessment being levied for each lot or tract of land with the register of deeds; and
2. File a release of assessment upon final payment of each assessment with the register of deeds.

(Neb. Rev. Stat. §18-1216)

SECTION 1-513: SPECIAL ASSESSMENT FUND

All money received on special assessments shall be held by the village treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made and such money shall be used for no other purpose unless to reimburse the village for money expended for any such improvement. (Neb. Rev. Stat. §17-710)

SECTION 1-514: CONTRACTS; APPROPRIATION

No contracts shall hereafter be made by the Village Board or any committee or member thereof and no expense shall be incurred by any of the officers or departments of the

village, whether the object of the expenditures shall be ordered by the board or not, unless an appropriation shall have been previously made concerning such expense or the funds necessary for the payment of such expense have been duly transferred according to law. (Neb. Rev. Stat. §§17-708, 17-709)

SECTION 1-515: CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS

A. Except as provided in Neb. Rev. Stat. §18-412.01 for a contract with a public power district to operate, renew, replace, or add to the electric distribution, transmission, or generation system of the village, no contract costing over \$30,000.00 shall be made for enlargement or general improvements such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, unless it is first approved by the Village Board.

B. Except as provided in Neb. Rev. Stat. §18-412.01, before the Village Board makes any contract in excess of \$30,000.00 for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the village engineer and submitted to the board. In advertising for bids as provided herein, the board may publish the amount of the estimate.

C. Advertisements for bids shall be required for any contract costing over \$30,000.00 entered into for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property or for the purchase of equipment used in the construction of such enlargement or general improvements.

D. A municipal electric utility may enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for such enlargement or improvement without advertising for bids if the price is:

1. \$30,000.00 or less;
2. \$60,000.00 or less and the village electric utility has gross annual revenue from retail sales in excess of \$1,000,000.00;
3. \$90,000.00 or less and the village electric utility has gross annual revenue from retail sales in excess of \$5,000,000.00; or
4. \$120,000.00 or less and the village electric utility has gross annual revenue from retail sales in excess of \$10,000,000.00.

D. The advertisement provided for in subsections (B) and (C) of this section shall be published at least seven days prior to the bid closing in a legal newspaper published in or of general circulation in the village or, if no newspaper has general circulation in the village or county, by posting a written or printed copy thereof in each of three public places in the village at least seven days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency, pressing necessity, or unforeseen need calling for immediate action or remedy to prevent a serious loss of or serious injury or damage to life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by Neb. Rev. Stat. §17-613 when adopted by a three-fourths vote of the Village Board and entered of record.

E. If, after advertising for bids as provided in this section, the Village Board receives fewer than two bids on a contract or if the bids received by the board contain a price which exceeds the estimated cost, the board may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost commensurate with the estimate given.

F. If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the Village Board, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the village, the board may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.

G. Any village bidding procedure may be waived by the Village Board when materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in Neb. Rev. Stat. §§81-145 to 81-162 or when the contract is negotiated directly with a sheltered workshop pursuant to Neb. Rev. Stat. §48-1503 or when required to comply with any federal grant, loan or program.
(Neb. Rev. Stat. §§17-568.01, 17-568.02)

SECTION 1-516: ANNUAL AUDIT; FINANCIAL STATEMENTS

A. The Village Board shall cause an audit of the village's accounts to be made by a recognized independent and qualified accountant as expeditiously as possible following the close of the fiscal year, unless a waiver of the audit requirement is requested, subject to the requirements of Neb. Rev. Stat. §84-304(4). The audit shall be made on a cash or accrual method at the discretion of the village. Such audit shall be completed and the annual audit report made by such accountant shall be submitted within six months after the close of the fiscal year in any event, unless an extension of time shall be granted by a written resolution adopted by the Village Board.

B. If the village is required to conduct an audit under Neb. Rev. Stat. §84-304(4) and owns or operates any type of public utility or other enterprise which substantially

generates its own revenue, that phase of the village's affairs shall be reported separately from the other functions of the village. The result of the audit shall appear separately in the annual audit report made by the accountant to the village, and the audit shall be on a cash or accrual basis at the discretion of the village.

C. The annual audit report shall set forth, insofar as possible, the financial position and results of financial operations for each fund or group of accounts of the village. When the accrual method is selected for the annual audit report, such report shall be in accordance with generally accepted accounting principles. The annual audit report shall also include the professional opinion of the accountant with respect to the financial statements or, if an opinion cannot be expressed, a declaration that the accountant is unable to express such an opinion with an explanation of the reasons why he or she cannot do so.

D. At least three copies of such annual audit report shall be properly signed and attested by the accountant; two copies shall be filed with the village clerk and one copy shall be filed with the state auditor of public accounts. The copy of the annual audit report submitted to the auditor of public accounts shall be accompanied by a supplemental report, if appropriate, by the accountant making the audit identifying any illegal acts or indications of illegal acts discovered as a result of the audit.

E. The annual audit report filed, together with any accompanying comment or explanation, shall become a part of the public records of the village and shall at all times thereafter be open and subject to public inspection. The copies filed with the auditor shall be kept as a part of the public records in that office for at least five years and shall at all times be subject to public inspection.

(Neb. Rev. Stat. §§19-2903, 19-2904, 19-2905)

SECTION 1-517: GENERAL FUND

All money not specifically appropriated in the annual appropriation bill shall be deposited in and known as the general fund.

SECTION 1-518: BUDGET STATEMENT; APPROPRIATIONS

The Village Board shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill," in which are appropriated such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the village. (Neb. Rev. Stat. §17-706) (Am. Ord. No. 96-315, 2/12/96)

SECTION 1-519: BUDGET PROCEDURE; FORM AND MANUAL INCORPORATED

Budgets shall be prepared as provided in the Nebraska Budget Act, Neb. Rev. Stat. §§13-501 to 13-513. For the purpose of proper budget preparation, the *City/Village Budget Form* and the *Budget Form Instruction Manual*, prepared by the state auditor of public accounts, are incorporated by reference.

SECTION 1-520: EXPENDITURES PRIOR TO ADOPTION OF BUDGET

A. On and after the first day of its fiscal year and until the adoption of the budget by the Village Board in September, the board may expend any balance of cash on hand for the current expenses of the village. Except as provided in subsection (B) of this section, such expenditures shall not exceed an amount equivalent to the total amount expended under the last budget in the equivalent period of the prior budget year. Such expenditures shall be charged against the appropriations for each individual fund or purpose as provided in the budget when adopted.

B. The restriction on expenditures in subsection (A) of this section may be exceeded upon the express finding of the Village Board that expenditures beyond the amount authorized are necessary to enable the village to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the statutory authorization shall be adopted by the board in open public session. Expenditures authorized by this section shall be charged against appropriations for each individual fund or purpose as provided in the budget when adopted, and nothing in this section shall be construed to authorize expenditures by the village in excess of that authorized by any other statutory provision.

(Neb. Rev. Stat. §§13-509.01, 13-509.02) (Ord. No. 95-291, 2/13/95)

SECTION 1-521: EMERGENCY; TRANSFER OF FUNDS

Whenever during the current fiscal year it becomes apparent to the Village Board that due to unforeseen emergencies there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the board may by a majority vote, unless otherwise provided by state law, transfer money from other funds to such fund. No expenditure during any fiscal year shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized in Neb. Rev. Stat. §13-511. (Neb. Rev. Stat. §13-510)

SECTION 1-522: PROPRIETARY FUNCTIONS; FISCAL YEAR; BUDGET STATEMENTS; FILING; HEARING; ADOPTION; RECONCILIATION

A. Pursuant to the Municipal Proprietary Function Act, the Village Board may prepare a proprietary budget statement for its proprietary functions separate and apart from its budget statement prepared pursuant to the Nebraska Budget Act. For purposes of this section, "proprietary function" shall mean a water supply or distribution utility, a wastewater collection or treatment utility, an electric generation, transmission, or distribution utility, a gas supply, transmission, or distribution utility, an integrated solid waste management collection, disposal, or handling utility, or a hospital or a nursing home owned by the village.

B. The Village Board may establish a separate fiscal year for each proprietary function, except that any proprietary function which is subsidized by appropriations

from the village's general fund shall have the same fiscal year as the village. For purposes of this section, subsidization shall mean that the costs of operation of a proprietary function are regularly financed by appropriations from the village's general fund in excess of the amount paid by the village to the proprietary function for actual service or services received.

C. If the village does not include its proprietary functions in its budget statement, a proposed proprietary statement shall be prepared in writing on forms provided by the state auditor and filed with the village clerk, at least 30 days prior to the start of the fiscal year of each proprietary function, containing the following information:

1. For the immediately preceding fiscal years, the revenue from all sources, the unencumbered cash balance at the beginning and end of the year, the amount received by taxation, and the amount of actual expenditure;
2. For the current fiscal year, actual and estimated revenue from all sources separately stated as to each such source, the actual unencumbered cash balance available at the beginning of the year, the amount received from taxation, and the amount of actual and estimated expenditure, whichever is applicable;
3. For the immediately ensuing fiscal year, an estimate of revenue from all sources separately stated as to each such source, the actual or estimated unencumbered cash balance, whichever is applicable, to be available at the beginning of the year, the amounts proposed to be expended during the fiscal year, and the amount of cash reserve based on actual experience of prior years; and
4. A uniform summary of the proposed budget statement which shall include a total of all funds maintained for the proprietary function. Such statement shall contain the estimated cash reserve for each fiscal year and shall whether or not such reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years.

D. After the proposed proprietary budget statement is filed with the village clerk, the Village Board shall conduct a public hearing on such statement. Notice of the time and place of the hearing, a summary of the proposed proprietary budget statement, and notice that the full proposed proprietary budget statement is available for public review with the village clerk during normal business hours, shall be published at least five days prior to the hearing in a newspaper of general circulation within the Village Board's jurisdiction or by mailing each resident within the board's jurisdiction.

E. After such hearing, the proposed proprietary budget statement shall be adopted or amended and adopted as amended, and a written report shall be kept of such hearing. If the adopted proprietary budget statement reflects a change from the proposed proprietary statement presented at the hearing, a copy of the adopted pro-

proprietary budget statement shall be filed with the village clerk within 20 days after its adoption and published in a newspaper of general circulation within the Village Board's jurisdiction or by mailing to each resident within the board's jurisdiction.

F. If the actual expenditures for a proprietary function exceed the estimated expenditures in the proprietary budget statement during its fiscal year, the Village Board shall adopt a proprietary function reconciliation statement within 90 days after the end of such fiscal year which reflects any difference between the adopted proprietary budget statement for the previous fiscal year and the actual expenditures and revenue for such fiscal year. After the adoption of a proprietary function reconciliation statement, it shall be filed with the village clerk and published in a newspaper of general circulation within the Village Board's jurisdiction or by mailing to each resident within the board's jurisdiction. If the difference between the adopted proprietary budget for the previous fiscal year and the actual expenditures and revenues for such fiscal year is greater than 10%, the proprietary function reconciliation statement shall only be adopted following a public hearing.

G. Any income from a proprietary function which is transferred to the general fund of the village shall be shown as a source of revenue in the budget statement created pursuant to the Nebraska Budget Act.
(Neb. Rev. Stat. §§18-2803 to 18-2808)

SECTION 1-523: PROPERTY TAX; CERTIFICATION OF AMOUNT

The Village Board shall, at the time and in the manner provided by law, cause to be certified to the county clerk the amount of tax to be levied upon the taxable value of all the taxable property of the village which the village requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. The county clerk shall place the same on the property tax lists to be collected in the manner provided by law for the collection of county taxes in the county where the village is situated. In all sales for any delinquent taxes for municipal purposes, if there are other delinquent taxes due from the same person or a lien on the same property, the sale shall be for all the delinquent taxes. Such sales and all sales made under or by virtue of this section or the provision of law herein referred to shall be of the same validity and in all respects be deemed and treated as though such sales had been made for the delinquent county taxes exclusively. Subject to Neb. Rev. Stat. §77-3442, the maximum amount of tax which may be so certified, assessed, and collected shall not require a tax levy in excess of the amounts specified in Neb. Rev. Stat. §17-702. (Neb. Rev. Stat. §17-702)

SECTION 1-524: ALL-PURPOSE LEVY; ALLOCATION; ABANDONMENT; EXTRAORDINARY LEVIES

The Village Board has decided to certify to the county clerk for collection one all-purpose levy required to be raised by taxation for all municipal purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits in

Neb. Rev. Stat. §77-3442, the all-purpose levy shall not exceed the annual levy specified in Neb. Rev. Stat. §19-1309 to be levied upon the taxable valuation of all taxable property in the village. The amount of the all-purpose levy shall be certified as a single amount for general fund purposes. The Village Board shall allocate the amount raised by the all-purpose levy to the several departments of the village in its annual budget and appropriation ordinance or in other legal manner as the board deems wisest and best. The village shall be bound by its election to follow the all-purpose levy method during the ensuing fiscal year but may abandon such method in succeeding fiscal years. Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the village may be made by the village in addition to the all-purpose levy. (Neb. Rev. Stat. §§19-1309 through 19-1312)

SECTION 1-525: PROPERTY TAX LEVY AND REQUEST; AUTHORITY TO SET

A. The property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization in Neb. Rev. Stat. §77-1601 unless the Village Board passes by majority vote a resolution or ordinance setting the tax request at a different amount. Such resolution or ordinance shall only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in the area of the village at least five days prior to the hearing.

B. The hearing notice shall contain the following information:

1. The dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request;
2. The property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and
3. The proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request.

C. Any resolution setting a tax request under this section shall be certified and forwarded to the county clerk prior to October 14 of the year for which the tax request is to apply.

D. Any tax levy which is not in compliance with this section and Neb. Rev. Stat. §77-1601 shall be construed as an unauthorized levy under Neb. Rev. Stat. §77-1606. (Neb. Rev. Stat. §§77-1601, 77-1601.02)

SECTION 1-526: PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED

Provisions for property tax levy, maximum levy, and authority to exceed the maximum levy for the support of the village shall be as provided in Neb. Rev. Stat. §§77-3442 through 77-3444.

SECTION 1-527: PROPERTY TAX LEVY FOR GENERAL REVENUE PURPOSES

The village shall have power to levy taxes for general revenue purposes in any one year not to exceed \$0.35 on each \$100.00 upon the taxable value of all the taxable property in the village. The valuation of such property shall be ascertained from the books or assessment rolls of the county assessor. (Neb. Rev. Stat. §17-506)

SECTION 1-528: LEVY FOR OTHER TAXES AND SPECIAL ASSESSMENTS

The village shall have power to levy any other tax or special assessment authorized by law. (Neb. Rev. Stat. §17-507)

Article 6 – Elections

SECTION 1-601: VILLAGE BOARD

A. Board members shall be elected from the village at large unless the residents have voted to elect their board members by wards. If the election of board members takes place by wards, each nominee shall be a resident and qualified elector of the ward for which he or she is a candidate and only residents of that ward may sign the candidate's nomination petitions.

B. Board members shall be residents and qualified electors. "Elector" as used in this article shall mean a citizen of the United States whose residence is within the state and who is at least 18 years of age or is 17 years of age and will attain the age of 18 years on or before the first Tuesday after the first Monday in November of the then current calendar year. Trustees shall be elected at the statewide general election as provided in Neb. Rev. Stat. §17-202 and each four years thereafter. Except as provided in such section, the term of each trustee shall be four years or until his or her successor is elected and qualified.

(Neb. Rev. Stat. §§17-202, 17-203, 32-110, 32-532, 32-554) (Am. Ord. No. 96-312, 2/12/96)

SECTION 1-602: ELECTION OF OFFICERS; CERTIFICATION

A. All village elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide primary and general elections.

B. No later than January 5 of each even-numbered year, for election of village officers in conjunction with the statewide primary election, the Village Board shall certify to the county clerk or election commissioner the name of the village, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office.

C. No later than July 1 of each even-numbered year, for election of village officers in conjunction with the statewide general election, the Village Board shall certify to the election commissioner the name of the village, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office.

(Neb. Rev. Stat. §§32-404(2) and (3), 32-556) (Am. Ord. No. 96-311, 2/12/96)

SECTION 1-603: JOINT PRIMARY AND GENERAL ELECTIONS

A. The village primary and general election shall be held in accordance with the provisions of Neb. Rev. Stat. Chapter 32. Said elections shall be held in conjunction with the state primary and general election. The county clerk shall have charge of the election and shall have the authority to deputize the village clerk for village election

purposes. Commencing with the statewide primary election in 1976 and every two years thereafter, those candidates for chairman and for positions on the Village Board whose terms will be expiring shall be nominated at the statewide primary election and elected at the statewide general election.

B. All village issues and offices shall be combined on the statewide primary and general election ballots whenever possible. The issuance of separate ballots shall be avoided in a statewide election if village offices or issues can reasonably be combined with the nonpartisan ballot and state law does not require otherwise. Any other election held by the village shall be held as provided in the Election Act unless otherwise provided by the charter, code, or bylaws of the village.

C. The notice of election required to be published by the county clerk no less than 40 days prior to an election shall serve as the notice requirement for all village elections which are held in conjunction any other election.

(Neb. Rev. Stat. §§32-404, 32-533, 32-556, 32-802)

SECTION 1-604: SPECIAL ELECTION

A. Except as provided in Neb. Rev. Stat. §77-3444, any issue to be submitted to the registered voters at a special election by the village shall be certified by the village clerk to the election commissioner at least 50 days prior to the election. A special election may be held by mail as provided in Neb. Rev. Stat. §§32-952 through 32-959. Any other special election shall be subject to subsection (B) of this section.

B. In lieu of submitting the issue at a special election, the village may submit the issue at a statewide primary or general election or at any scheduled county election, except that no such issue shall be submitted at a statewide election or scheduled county election unless the issue to be submitted has been certified by the village clerk to the election commissioner by March 1 for the primary election and by September 1 for the general election. The village clerk shall be responsible for the publication or posting of any required special notice of the submission of such issue other than the notice required to be given of the statewide election issues.

C. The election commissioner shall prepare the ballots and issue ballots for early voting and shall also conduct the submission of the issue, including the receiving and counting of ballots on the issue. The election returns shall be made to the election commissioner. The ballots shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the County Canvassing Board, the election commissioner shall certify the election results to the Village Board. The canvass by the Canvassing Board shall have the same force and effect as if made by the board.

D. Any issue to be submitted to the registered voters at a special election by the village shall be certified by the village clerk to the election commissioner at least 50 days prior to the election. A special election may be held by mail as provided in Neb. Rev. Stat. §§32-952 through 32-959. Any special election under the Election Act shall

be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically provided. No special election shall be held under the Election Act in April, May, June, October, November, or December of an even-numbered year unless it is held in conjunction with the statewide primary or general election.

(Neb. Rev. Stat. §§32-559, 32-405) (Am. Ord. No. 98-353, 1/12/98)

SECTION 1-605: PETITION CANDIDATES

A. Any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot for a partisan office by filing petitions as prescribed in Neb. Rev. Stat. §§32-617 to 32-621, or by nomination by political party convention or committee pursuant to Neb. Rev. Stat. §§32-627 or 32-710.

B. Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot if a vacancy exists on the ballot under subsection (2) of Neb. Rev. Stat. §32-625 and the candidate files for the office by petition as prescribed herein.

C. Petitions for nomination of candidates for Village Board shall conform to the requirements of Neb. Rev. Stat. §32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. A sample copy of the petition shall be filed with the filing officer prior to circulation. Petitions shall be signed by registered voters residing in the village and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. Rev. Stat. §32-607. Petition signers and petition circulators shall conform to the requirements of Neb. Rev. Stat. §§32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing the payment of the filing fee required. Such petitions shall be filed by September 1 in the year of the general election.

D. The number of signatures of registered voters needed to place the name of a nonpartisan candidate upon the ballot for a village office for the general election shall be at least 10% of the total number of registered voters voting for governor or president of the United States at the immediately preceding general election in the village, not to exceed 2,000. The number of signatures of registered voters needed to place the name of a candidate upon the partisan ballot for the general election shall be at least 20% of the registered voters voting for governor or president of the United States at the immediately preceding general election in the village, not to exceed 2,000.

E. The filing officer shall verify the signatures according to Neb. Rev. Stat. §32-631. Within three days after the signatures on a petition for nomination have been verified pursuant to such section and the filing officer has determined that pursuant to Neb. Rev. Stat. §32-618 a sufficient number of registered voters signed the petitions, the filing officer shall notify the candidate so nominated by registered or certified mail and the candidate shall, within five days after the date of receiving such notification,

file with such officer his or her acceptance of the nomination or his or her name will not be printed on the ballot.

F. A candidate placed on the ballot by petition shall be termed a candidate by petition. The words "By Petition" shall be printed upon the ballot after the name of each candidate by petition.

(Neb. Rev. Stat. §§32-616, 32-617, 32-618)

SECTION 1-606: CAUCUS CANDIDATES

A. The Village Board may by ordinance call a caucus for the purpose of nominating candidates for offices to be filled in the village election. Such caucus shall be held at least ten days prior to the filing deadline for such election. Notice of such caucus must be published at least once in each of two consecutive weeks prior to said caucus in a newspaper of general circulation in the village.

B. The chairman of the caucus at which candidates are nominated shall notify in writing the village clerk of the candidates so nominated, not later than two days following the caucus. The village clerk shall then notify the persons so nominated of their nomination, such notification to take place not later than five days after such caucus. No candidate so nominated shall have his or her name placed upon the ballot unless, not more than ten days after the holding of such caucus, he or she files with the village clerk a written statement accepting the nomination of the caucus and pays the filing fee, if any, for the office for which he or she was nominated.

C. The provisions of Neb. Rev. Stat. §§17-601.01 and 17-601.02 shall not preclude in any manner any person from filing for the offices to which such sections are applicable, either by direct filing or by petition.

(Neb. Rev. Stat. §§17-601.01 through 17-601.03)

SECTION 1-607: WRITE-IN CANDIDATES

Any candidate engaged in or pursuing a write-in campaign shall file a notarized affidavit of his or her intent, together with the receipt for any filing fee, with the filing officer as provided in Neb. Rev. Stat. §32-608 no later than ten days prior to the election. Any registered voter who was not a candidate in the primary election and who was not registered to vote with a party affiliation on or after March 1 and before the general election in the calendar year of the general election may have his or her name placed on the general election ballot for a partisan office by filing petitions as prescribed in Neb. Rev. Stat. §§32-617 to 32-621 or by nomination by political party convention or committee pursuant to Neb. Rev. Stat. §§32-627 or 32-710. A candidate who has been defeated as a candidate in the primary election or defeated as a write-in candidate in the primary election shall not be eligible as a write-in candidate for the same office in the general election unless a vacancy on the ballot exists pursuant to Neb. Rev. Stat. §32-625(2), and the candidate files for the office by petition as prescribed in Neb. Rev. Stat. §§32-617 and 32-618 and files as a write-in candidate or is nominated by political party convention or committee as prescribed herein. A candidate who files a notarized

affidavit shall be entitled to all write-in votes for the candidate even if only the last name of the candidate has been written if such last name is reasonably close to the proper spelling. (Neb. Rev. Stat. §§32-615, 32-616)

SECTION 1-608: FILING FOR OFFICE; FORMS

A. *Primary Election.* Any candidate may place his or her name on the primary election ballot by filing a candidate filing form prescribed by the secretary of state as provided in Neb. Rev. Stat. §32-607. If a candidate for an elective office is an incumbent of any elective office, the filing period for filing the candidate filing form shall be between December 1 and February 15 prior to the date of the primary election. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after February 15 of that election year. Candidates shall file for office between December 1 and March 1 prior to the date of the primary election.

B. *General Election.* Any candidate for the Village Board may place his or her name on the general election ballot by filing a candidate filing form prescribed by the secretary of state as provided in Neb. Rev. Stat. §32-607. If a candidate for an elective office is an incumbent of any elective office, the filing period for filing the candidate filing form shall be between December 1 and July 15 prior to the date of the general election. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after July 15 of that election year. All other candidates shall file for office between December 1 and August 1 prior to the date of the general election.

C. All candidate filing forms shall contain the information required by Neb. Rev. Stat. §32-607. Said forms shall be filed in the office of the county clerk. (Neb. Rev. Stat. §§32-606, 32-607)

SECTION 1-609: FILING FEE

A. Except as provided in subsection (C) or (D) of this section, a filing fee shall be paid to the village treasurer by or on behalf of each candidate prior to filing for office. The fee shall be a sum equal to 1% of the annual salary as of November 30 of the year preceding the election for the office for which the candidate files and shall be placed in the general fund of the village. No candidate filing forms shall be filed until the proper receipt showing payment of such filing fee is presented to the filing officer. On the day of the filing deadline, the village treasurer's office shall remain open to receive filing fees until the hour of the filing deadline.

B. All declared write-in candidates shall pay the filing fees that are required for the office at the time that they present the write-in affidavit to the filing officer. Any undeclared write-in candidate who is nominated or elected by write-in votes shall pay the filing fee required for the office within 10 days after the canvass of votes by the Canvassing Board and shall file the receipt with the person issuing the certificate of nomination or the certificate of election prior to the certificate being issued.

C. No filing fee shall be required on any candidate filing for an office in which a per diem is paid rather than a salary or for which there is a salary of less than \$500.00 per year.

D. No filing fee shall be required of any candidate completing an affidavit requesting to file for elective office *in forma pauperis*. The definition of "pauper" and requirements regarding income and assets shall be as provided in Neb. Rev. Stat. §32-608.

E. If any candidate dies prior to an election, the spouse of the candidate may file a claim for refund of the filing fee with the Village Board prior to the date of the election. Upon approval of the claim by the board, the filing fee shall be refunded. (Neb. Rev. Stat. §32-608)

SECTION 1-610: BALLOTS

The county clerk shall provide printed ballots for every general or special village election, and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the village. (Neb. Rev. Stat. §§32-805, 32-1202)

SECTION 1-611: EXIT POLLS

No person shall conduct any exit poll, public opinion poll or any other interview with voters on Election Day seeking to determine voter preference within 20 feet of the entrance to any polling place or, if inside the polling place or building, within 100 feet of any voting booth. (Neb. Rev. Stat. §32-1525)

SECTION 1-612: CERTIFICATE OF NOMINATION OR ELECTION

The county clerk shall, within 40 days after the election, prepare, sign, and deliver a certificate of nomination or a certificate of election to each person whom the Canvassing Board has declared to have received the highest vote for each village office. No person shall be issued a certificate of nomination as a candidate of a political party unless such person has received a number of votes at least equal to 5% of the total ballots cast at the primary election by registered voters affiliated with that political party in the district which the office for which he or she is a candidate serves. (Neb. Rev. Stat. §§32-558, 32-1033)

SECTION 1-613: RECALL PROCEDURE

Any of the elected officials of the village may be removed from office by recall pursuant to Neb. Rev. Stat. §§32-1301 to 32-1309.

Article 7 – Penal Provision

SECTION 1-701: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.