

## ADMINISTRATIVE

# CHAPTER 1

## ADMINISTRATIVE

### ARTICLE 1. ELECTED OFFICIALS

#### **§1-101 CHAIRPERSON OF GOVERNING BODY: SELECTION AND DUTIES**

The Chairperson of the Governing Body shall be selected at the first (1<sup>st</sup>) regular meeting in December each year by the Governing Body from its own membership. The Chairperson shall preside at all meetings of the Governing Body. In the absence of the Chairperson, the Governing Body shall elect one of its own members to occupy the place temporarily who shall hold the title of Chairperson pro tempore of the Governing Body, who shall exercise and have the powers and perform the same duties as the regular Chairperson.

The Chairperson and Chairperson pro tempore shall have the same powers and privileges as other members of the Governing Body. The Chairperson shall cause the ordinances of the Governing Body to be printed and published for the information of the inhabitants. The Chairperson shall also perform all duties of his office in accordance with the laws of the State of Nebraska, and the ordinances of the Municipality.

The qualifications for the Chairperson shall be the same general qualifications that apply to the Governing Body members. (*Ref. 17-202 through 17-210 RS Neb.*)

#### **§1-102 GOVERNING BODY: ORGANIZATION**

The Governing Body shall be vested in the Board of Trustees which shall consist of five (5) members. Any person who is a citizen of the United States, a resident of the Municipality at the time of his or her election, and a registered voter may be eligible to be elected to the Governing Body. Every Trustee so elected and so qualified shall hold his or her office for the term of four (4) years; provided, a Trustee's term shall expire, and the office will become vacant upon a change of residence from the Municipality.

The members of the Governing Body shall, before entering upon the duties of their office, take an oath to support the Constitution of the United States, and the Constitution of the State of Nebraska, and faithfully and impartially discharge the duties of their office.

## ADMINISTRATIVE

The Governing Body shall qualify and meet on the first (1<sup>st</sup>) regular meeting in December, reorganize, and appoint the Municipal officers required by law.  
(*Ref. 17-202 to 17-204 RS Neb.*)

### **§1-103 GOVERNING BODY; POWERS**

The Governing Body shall have the power to pass ordinances to prevent and remove nuisances; to restrain and prohibit gambling; to license, regulate or prohibit billiard halls, pool halls or bowling alleys within the limits of such village; to provide for licensing and regulating theatrical and other amusements within the Municipality; to prevent the introduction and spread of contagious diseases; to establish and regulate markets; to erect and repair bridges; to erect, repair, and regulate wharves and the rates of wharfage; to regulate the landing of watercraft; to provide for the inspection of building materials to be used or offered for sale in the Municipality; 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 of the Municipality; and in addition to the special powers herein conferred and granted, to maintain the peace, good government, and welfare of the Municipality and its trade, commerce, and manufactories; and to enforce all ordinances by inflicting penalties upon inhabitants or other persons for violation thereof not exceeding \$500 for any one offense, recoverable with costs, together with judgment of imprisonment until the amount of the judgment and costs shall be paid.  
(*Ref. 17-207 RS Neb.*)

### **§1-104 ELECTED OFFICIALS; VACANCY**

Vacancies in Municipal elected offices shall be filled by the Governing Body for the balance of the unexpired term except as provided in this Section.

Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the Governing Body at a regular or special meeting and shall appear as a part of the minutes of such meeting.

The Governing Body shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the Municipality, or by posting in three (3) public places in the Municipality the office vacated and the length of the unexpired term.

The Mayor or Chairperson of the Board shall call a special meeting or place the issue of filling such vacancy on the agenda at the next regular meeting at which time the Mayor or Chairperson 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

## ADMINISTRATIVE

governing body 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 Mayor or Chairperson 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 Mayor or Chairperson shall continue at such meeting to submit the names of qualified registered voters in nomination and the governing body shall continue to vote upon such nominations at such meeting until the vacancy is filled. In the case of a Village government, all Council members and Trustees present shall cast a ballot for or against the nominee. In the case of a City government, the Mayor shall cast his or her vote for or against the nominee in the case of a tie vote of the Council. Any member of the governing body who has been appointed to fill a vacancy on the Board shall have the same rights, including voting, as if such person were elected..

No officer 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 Governing Body during the remainder of his or her term of office.

The Chairperson (or Mayor) and Governing Body may, in lieu of filling a vacancy in a Municipal office as provided above in this Section, call a special Municipal Election to fill such vacancy.

If there are vacancies in the offices of a majority of the members of the Governing Body, there shall be a special Municipal Election conducted by the Secretary of State to fill such vacancies.  
(*Ref. 32-568; 32-569 RS Neb.*)

### **§ 1-105. BOARD OF TRUSTEES; VACANCY; WHEN.**

In addition to the events listed in section 32-560 NRS, and any other reasons for a vacancy provided by law, after notice and a hearing, a vacancy on the Board of Trustees shall exist if a member is absent from more than five consecutive regular meetings of the Council or Board unless the absences are excused by a majority vote of the remaining members. (*Ref 19-3101 NRS Neb.*)

## ADMINISTRATIVE

### **ARTICLE 2. APPOINTED OFFICIALS**

#### **§1-201 APPOINTED OFFICIALS; GENERAL AUTHORITY**

The Governing Body may appoint a Municipal Clerk, a Municipal Treasurer, a Municipal Utilities Superintendent, Municipal Attorney, a Municipal Engineer, a Special Engineer, Municipal Street Commissioner and a Municipal Marshal. It may also appoint such additional officials and employees as they may determine the Municipality needs.

It shall also appoint a Board of Health consisting of three (3) members: The Chairperson of the Governing Body shall be the Chairperson of the Board of Health, and two other members. One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the Board's medical advisor. If the Board of Trustees has appointed a Marshal, the Marshal may be appointed to the Board and serve as secretary and quarantine officer. A majority of the Board of Health shall constitute a quorum and shall enact rules and regulations, which shall have the force and effect of law, to safeguard the health of the people of the Municipality and prevent nuisances and unsanitary conditions. The Board of health shall enforce the same and provide fines and punishments for violations.

All such appointees shall hold office for one (1) year, unless sooner removed by the Chairperson of the Governing Body by and with the advice and consent of the Governing Body.

*(Ref. 17-208 RS Neb.)*

#### **§1-202 APPOINTED OFFICIALS; MERGER OF OFFICES**

The Governing Body 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, except that Trustees may perform and upon approval from the Governing Body receive compensation for seasonal or emergency work subject to 49-14,103.01 to 49-14,103.06 RS Neb (conflict of interest).

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

## ADMINISTRATIVE

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.

*(Ref. 17-209.02, 49-14, 103.01 to 49-14, 103.06 RS Neb)*

### **§1-203 APPOINTED OFFICIAL: MUNICIPAL CLERK**

The Municipal Clerk shall attend the meetings of the Governing Body, shall have custody of all laws and ordinances and keep a correct journal of the proceedings of that body; provided that after the period of time specified by the State Records Administrator pursuant to sections 84-1201 to 84-1220, the Clerk may transfer such journal of the proceedings of the Board of Trustees to the State Archives of the Nebraska State Historical Society, for permanent preservation.

He or she shall make, at the end of the fiscal year, a report of the business of the Municipality transacted through his or her office for the year. That record shall include a record of all outstanding bonds against the village, showing the number and amount of each, for and to whom the said bonds were issued, and when any bonds are purchased or paid or canceled said record shall show the fact; and in his annual report the Clerk shall describe particularly the bonds issued and sold during the year, the terms of sale, with every item of expense thereof.

He or she shall make the proper certificate of passage which shall be attached to original copies of all bond ordinances hereafter enacted by the Governing Body.

The Municipal Clerk shall issue, and sign all licenses, permits, and occupation tax receipts authorized by law, and required by the Municipal ordinances. He or she shall collect all occupation taxes, and license money except where some other Municipal officer is specifically charged with that duty. He or she shall keep a register of all licenses granted in the Municipality, and the purpose for which they have been issued.

The Municipal Clerk shall permit no records, public papers, or other documents of the Municipality kept, and preserved in his or her office to be taken therefrom, except by such officers of the Municipality as may be entitled to the use of the same, but only upon their leaving a receipt therefore. He or she shall keep all the records of his or her office, including a record of all licenses issued by him or her in blank book with a proper index.

He or she shall include as part of his or her records all petitions under which the Governing Body 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. He or she shall endorse the date, and hour of filing upon

## ADMINISTRATIVE

every paper, or document so filed in his or her office. All such filings made by him or her shall be properly docketed. Included in his or her records shall be all standard codes, amendments thereto, and other documents incorporated by reference, and arranged in triplicate in a manner convenient for reference.

He or she shall keep an accurate, and complete account of the appropriation of the several funds, draw, sign, and attest all warrants ordered for the payment of money on the particular fund from which the same is payable. At the end of each month, he or she shall then make a report of the amounts appropriated to the various fund, and the amount of the warrants drawn thereon. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records at all reasonable times.

The Municipal Clerk shall deliver all warrants, ordinances, and resolutions under his or her charge to the Chairperson for his or her signature. He or she shall also deliver to officers, employees, and committees all resolutions, and communications which are directed at said officers, employees, or committees. With the seal of Municipality, he or she shall duly attest the Chairperson's signature to all ordinances, deeds, and papers required to be attested to when ordered to do so by the Governing Body.

Within thirty (30) days after any meeting of the Governing Body, the Municipal Clerk shall prepare, and publish the official proceedings of the Governing Body in a legal newspaper of general circulation in the Municipality, and which was duly designated as such by the Governing Body. If no legal newspaper is published in the Municipality, then such publication shall be made in one legal newspaper published or of general circulation within the county in which such Municipality is located. 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 payroll claims may be included as one (1) item.

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. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for such publication shall not exceed the rates provided by the statutes of the State of Nebraska. Said publication shall be charged against the General Fund.

He or she shall then keep in a book with a proper index, copies of all notices required to be published, or posted by the Municipal Clerk by order of the Governing Body, or under the ordinances of the Municipality. To each of the file copies of said notices shall be attached the printer's affidavit of publication, if the said notices are required to be published, or the Municipal Clerk's certificate under seal where the same are required to be posted only.

## ADMINISTRATIVE

The Municipal Clerk shall receive all objections to creation of paving districts, and other street improvements. He or she shall receive the claims of any person against the Municipality, and in the event that the said claim is disallowed in part, or in whole, the Municipal Clerk shall notify such claimant, his or her agent, or attorney by letter within five (5) days after such disallowance, and the Municipal Clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

The Municipal Clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution of the Governing Body. He or she shall destroy Municipal records under the direction of the State Records Board pursuant to sections 84-1201 through 84-1220; provided, the Governing Body shall not have the authority to destroy the minutes of the Municipal Clerk, the permanent ordinances, and resolution books, or any other records classified as permanent by the State Records Board.

*(Ref. 17-605, 19-1102, 19-1103, 19-1104, 84-1201 to 84-1220, 84-712 RS Neb.)*

### **§1-204 APPOINTED OFFICIALS; MUNICIPAL TREASURER**

The Municipal Treasurer shall be the custodian of all moneys belonging to the Municipality. He or she shall keep all money belonging to the Municipality separate, and distinct from his or her own money. He or she shall keep a separate account of each fund or appropriation, and the debits, and credits belonging thereto. He or she shall issue duplicate (2) receipts for all moneys received by him or her for the Municipality. He or she shall give to every person paying money into Municipal Treasury, a receipt therefore, specifying the date of payment, and the account paid. One (1) of the receipts shall be filed with his or her monthly report, and the last copy of the said receipt shall be kept on file in his or her office.

His or her books and accounts shall always be open for inspections by any citizen of the Municipality whenever any Municipal fiscal record, audit, warrant, voucher, invoice, purchase order, requisition, payroll check, receipt or other record of receipt, cash or expenditure involving public funds is involved.

He or she shall cancel all bonds, coupons, warrants, and other evidences of debt against the Municipality, whenever paid by him or her, by writing, or stamping on the face thereof, "Paid by the Municipal Treasurer," with the date of payment written or stamped thereon.

He or she shall collect all special taxes, allocate special assessments to the several owners, and shall obtain from the County Treasurer a monthly report as to the collection of delinquent taxes.

The Treasurer's daily cash book shall be footed and balanced daily, and he or she shall adopt such bookkeeping methods as the Governing Body shall

## ADMINISTRATIVE

prescribe. He or she shall invest and collect all money owned by, or owed to, the Municipality as directed by the Governing Body.

*(Ref. 17-606 to 17-609, 84-712 RS Neb.)*

### **§1-205 APPOINTED OFFICIALS: TREASURER'S MONTHLY REPORT**

The Municipal Treasurer shall at the end of each, and every month, and such other times as the Governing Body may deem necessary, render an account to the Governing Body under oath showing the financial state of the Municipality at that date, the amount of money remaining in each fund and the amount paid there from, and the balance of money remaining in the Treasury.

He or she shall accompany the said account with a statement of all receipts, and disbursements, together with all warrants redeemed, and paid by him or her. He or she shall also produce depository evidence that all Municipal money is in a solvent and going bank in the name of the Municipality.

If the Municipal Treasurer shall neglect, or fail for the space of ten (10) days from the end of each and every month to render his accounts as aforesaid, the Governing Body shall, by resolution, declare the office vacant, and appoint some person to fill the vacancy.

If the treasurer fails to render his or her account within twenty days after the end of the month, or by a later date established by the governing body, the Chairperson, with the advice and consent of the Trustees may use this failure as cause to remove the Treasurer from office.

The Municipal Treasurer shall be present at the first regular meeting of the Governing Body each month at which time he or she shall read, and file his or her monthly report.

*(Ref. 17-606 RS Neb.)*

### **§1-206 APPOINTED OFFICIALS; TREASURER'S ANNUAL REPORT**

The Municipal Treasurer shall publish in a legal newspaper having general circulation within the Municipality, within sixty (60) days following the close of the Municipality's fiscal year, a report of the activities of his or her office which said report shall show in detail. Said report shall include all receipts, disbursements, warrants outstanding, and the debit, or credit balance of the Municipality.

*(Ref. 19-1101 RS Neb.)*

### **§1-207 APPOINTED OFFICIALS; MUNICIPAL ATTORNEY**

The Municipal Attorney is the Municipality's legal advisor, and as such he or she shall commence, prosecute, and defend all suits on behalf of the Municipality. When requested by the Governing Body, he or she shall attend meetings of the

## ADMINISTRATIVE

Governing Body, and shall advise any Municipal Official in all matters of law in which the interests of the Municipality may be involved.

He or she shall draft such ordinances, bonds, contracts, and other writing as may be required in the administration of the affairs of the Municipality. He or she shall examine all bonds, contracts, and documents on which the Governing Body will be required to act, and attach thereto a brief statement in writing to all such instruments, and documents as to whether, or not, the document is in legal, and proper form.

He or she shall prepare complaints, attend, and prosecute violations of the Municipal ordinances when directed to do so by the Governing body. Without directions, he or she shall appear, and prosecute all cases for violation of the Municipal ordinances that have been appealed to, and are pending in any higher court.

He or she shall also examine, when requested to do so by the Governing Body, the ordinance records, and advise, and assist the Municipal Clerk as much as may be necessary to the end that each procedural step will be taken in the passage of each ordinance to insure that they will be valid, and subsisting local laws in so far as their passage, and approval are concerned.

The Governing Body shall have the right to compensate the Municipal Attorney for legal services on such terms as the Governing Body and the Municipal Attorney may agree, and to employ any additional legal assistance as may be necessary out of the funds of the Municipality.

*(Ref. 17-610 RS Neb.)*

### **§1-208 APPOINTED OFFICIALS; MUNICIPAL MARSHAL**

The Municipal Marshal shall direct the police work of the Municipality and shall be responsible for the maintenance of law and order. He or she shall act as Health Inspector except in the event the Municipality appoints another person.

He or she shall file the necessary complaints in cases arising out of violations of Municipal ordinances, and shall make all necessary reports required by the Municipal ordinances, or the laws of the State of Nebraska.

In the event the Governing Body shall deem it necessary, it may contract with appropriate County Sheriff's Department to provide the Municipality with the necessary law enforcement personnel.

*(Ref. 17-213 RS Neb.)*

## ADMINISTRATIVE

### **§1-209 APPOINTED OFFICIALS; MUNICIPAL FIRE CHIEF**

A Municipal Fire Chief shall be appointed by the Chairperson of the Governing Body with the approval of the Governing Body.

The members of the Fire Department shall annually make a recommendation to the Governing Body by an election to be held pursuant to rules and regulations established by the Fire Department.

The Municipal Fire Chief shall enforce all laws and ordinances covering the prevention of fires; the storage and use of explosives and flammable substances; the installation of fire alarm systems; the maintenance of fire extinguishing equipment; the regulation of fire escapes; and the inspection of all premises requiring adequate fire escapes. He or she shall within two (2) days investigate the cause, origin, and circumstances of fires arising within his jurisdiction.

He or she shall, on or before the first (1<sup>st</sup>) day in April and October of each year, cause the secretary to file with the Municipal Clerk, and the Clerk of the District Court a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the exemptions provided by law.

He or she shall have the power during the time of a fire, and for a period of thirty-six (36) hours thereafter to arrest any suspected arsonist, or any person for hindering the department's efforts, conducting himself or herself in a noisy and disorderly manner, or who shall refuse to obey any lawful order by the Fire Chief or Assistant Fire Chief. The Fire Chief, or his or her assistant in charge of operations at a fire, may command the services of any person present at any fire in extinguishing the same or in the removal, and protection of property. Failure to obey such an order shall be a misdemeanor punishable by a fine.

The Fire Chief shall have the right to enter at all reasonable hours into buildings, and upon all premises within his or her jurisdiction for the purpose of examining the same for fire hazards, and related dangers.

*(Ref. 17-549, 35-102, 35-108, 81-512 RS Neb.)*

### **§1-210 APPOINTED OFFICIALS; SPECIAL ENGINEER**

The Governing Body may employ a Special Engineer to make or assist the Municipal Engineer in making any particular estimate, survey, or other work. The Special Engineer shall make a record of the minutes of his or her surveys and all other work done for the Municipality. He or she shall, when directed by the Governing Body, accurately make all plats, sections, profiles, and maps as may be necessary in the judgment of the Governing Body. He or she shall, upon request of the Governing Body, make estimates of the costs of labor and material which may be done or furnished by contract with the Municipality, and make all surveys, estimates, and calculations necessary for the establishment of grades,

## ADMINISTRATIVE

bridges, or culverts and for the building, constructing, or repairing of any public improvement of the Municipality.

All records of the Special Engineer shall be public records which shall belong to the Municipality, and shall be turned over to his or her successor. He or she shall, when directed by the Governing Body, 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 Governing Body. He or she shall estimate the cost of all proposed Municipal utilities and public improvements, together with any extension thereof which the Governing Body may propose to construct or improve.

*(Ref. 17-405, 17-568, 17-568.01, 17-919 RS Neb.)*

### **§1-211 APPOINTED OFFICIALS; MUNICIPAL STREET SUPERINTENDENT**

The Municipal Street Superintendent shall be licensed under the County Highway and City Street Superintendents Act; be subject to the orders and directives of the Governing Body, have general charge, direction, and control of all work on the streets, sidewalks, culverts, and bridges of the Municipality, and shall perform such other duties as the Governing Body may require.

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. He or she shall, at the request of the Governing Body make a detailed report to the Governing Body on the condition of the streets, sidewalks, culverts, alleys, and bridges of the Municipality, and shall direct their attention to such improvements, repairs, extensions, addition, and additional employees as he or she may believe are needed to maintain a satisfactory street system in the Municipality along with an estimate of the cost thereof.

His or her duties shall additionally include:

- 1) Developing and annually updating a long-range plan based on needs and coordinated with adjacent local governmental units;
- (2) Developing an annual program for design, construction, and maintenance;
- (3) Developing an annual budget based on programmed projects and activities;
- (4) Submitting such plans, programs, and budgets to the local governing body for approval;
- (5) Implementing the capital improvements and maintenance activities provided in the approved plans, programs, and budgets; and

## ADMINISTRATIVE

(6) Preparing and submitting annually to the Board of Public Roads Classifications and Standards the one-year and six-year plans of the Municipality or municipal county for highway, road, and street improvements as set forth in sections 39-2115 to 39-2117 and 39-2119 and a report showing the actual receipts, expenditures, and accomplishments compared with those budgeted and programmed in the annual plans of the Municipality or municipal county as set forth in section 39-2120.

In the event no one else is specifically appointed, the Municipal Engineer or the Special Engineer, whichever is applicable, shall be and act as the Street Superintendent. (*Ref. 39-2512 RS Neb.*)

### **§1-212 APPOINTED OFFICIALS; MUNICIPAL UTILITIES SUPERINTENDENT**

A Utilities Superintendent shall be appointed in the event that there is more than one Municipal utility, and the Governing Body determines that it is in the best interest of the Municipality to appoint one (1) official to have the immediate control over all the said Municipal utilities.

The Utilities Superintendent may be removed for good cause by a two-thirds (2/3) vote of the Governing Body and any vacancy occurring in the said office by death, resignation or removal may be filled in the manner hereinbefore provided for the appointment of all Municipal officials.

The Chairperson shall nominate and by and with the advice and consent of the city Council or Board of Trustees, as the case may be, shall appoint any competent person who shall be known as the utilities commissioner and whose term of office shall be for one fiscal year or until his or her successor is appointed and qualified. Annually at the first regular meeting of the Board of Trustees in December, the Utilities Commissioner shall be appointed as provided in this section. The Utilities Commissioner shall, before he or she enters upon the discharge of his or her duties, execute a bond to such city or village in a sum to be fixed by the Board of Trustees, but not less than five thousand dollars, conditioned upon the faithful discharge of his or her duties, and signed by two or more good and sufficient sureties, to be approved by the Board of Trustees or executed by a corporate surety. The Utilities Commissioner, subject to the supervision of the Mayor and Council or Board of Trustees, shall have the general management and control of the system of waterworks or mains or portion or extension of any system of waterworks or water supply and sewer system in the village. (*Ref. 17-541 RS Neb.*)

### **§1-213 APPOINTED OFFICIALS; MUNICIPAL BUILDING INSPECTOR**

The Municipal Building Inspector shall conduct surveys and make inspections in any area of the Municipality to determine whether all buildings and structures are in compliance with the Municipal ordinances.

## ADMINISTRATIVE

He or she shall investigate all complaints whether they are verbal, written, or in the form of a petition alleging, and charging that a violation of the Municipal ordinances exists, and that building, or structure is unfit, or unsafe for human habitation.

The Building Inspector is authorized upon properly identifying himself or herself to enter, inspect, survey, and investigate between the hours of eight (8:00) o'clock A.M., and five (5:00) o'clock P.M., or at any time if an emergency exists, or if requested by the owner, or occupant thereof.

He or she shall keep records of all complaints received, inspection reports, orders, and complaints issued. The records shall be available for public inspection, and he or she shall prepare an annual report including statistics based on the records kept.

The Building Inspector shall have no financial interest in the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of a building, except where he or she is the owner of a building, and he or she shall not act as an agent for any said dealer, or as an agent for the sale, lease, or rental of any real estate.

The Building Inspector shall report to the Governing Body as often as they may deem necessary, and shall have such other duties, and issue such permits as they may direct.

The Building Inspector may be removed at any time for good and sufficient cause by the Governing Body.

In the absence of a specific appointment by the Chairperson, the utilities Superintendent shall be the ex officio Building Inspector and may hold any other appointment(s) that may be delegated to the position of Building Inspector.

### **§1-214 APPOINTED OFFICIALS; ZONING INSPECTOR**

The Chairperson (or Mayor) may appoint a Zoning Inspector. In the absence of a specific appointment by the Chairperson (or Mayor), the Building Inspector is hereby designated as Zoning Inspector.

ADMINISTRATIVE

**ARTICLE 3. OATH**

**§1-301 OATH OF OFFICE; MUNICIPAL OFFICIALS**

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

“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 ability. 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, not 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.”

*(Ref. 11-101 RS Neb.)*

## ADMINISTRATIVE

### ARTICLE 4. CORPORATE SEAL

#### §1-401 SEAL; OFFICIAL CORPORATE.

The official Corporate Seal of the Municipality shall be kept in the office of the Municipal Clerk, and shall bear the following inscription, "*Village of Eagle, Corporate Seal, Cass County, Nebraska.*"

The Municipal Clerk 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 Governing Body and countersigned by the Municipal Clerk.  
(*Ref. 17-502 RS Neb.*)

## ADMINISTRATIVE

### **ARTICLE 5. MEETINGS**

#### **§1-501 MEETINGS; DEFINED**

Meetings, as used in this Article 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. (*Ref. 84-1409(2) RS Neb.*)

#### **§1-502 MEETINGS; PUBLIC BODY DEFINED**

Public Body as used in this Article shall mean:

- The Governing Body of the Municipality,
- All independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies, now or hereafter created by Constitution, statute, ordinance or otherwise pursuant to law, and
- Advisory committees of the bodies listed above.

This Article 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 body.

#### **§1-503 MEETINGS; PUBLIC**

All public meetings as defined by law shall be held in a Municipal public building which shall be open to attendance by the public. All meetings shall be held in the public building in which the Governing Body usually holds such meetings unless the publicized notice hereinafter required shall designate some other public building or other specified place.

The advance publicized notice of all public convened meetings shall be simultaneously transmitted to all members of the Governing Body and to the public by a method designated by the Governing Body or by the Chairperson if the Governing Body has not designated a method. Such notice shall contain the time and specific place for each meeting and either an agenda of subjects known at the time of the notice or a statement that such an agenda, kept continually current, is readily available for public inspection at the office of the Municipal Clerk.

Except for items of an emergency nature, the agenda shall not be altered later than

## ADMINISTRATIVE

- (a) Twenty-four (24) hours before the scheduled commencement of the meeting,
- Or**
- (b) Forty-eight (48) hours before the scheduled commencement of a meeting of the Governing Body scheduled outside the corporate limits of the Municipality.

The Governing Body shall have the right to modify the agenda to include items of an emergency nature only, at such public meetings.

The minutes of the Municipal Clerk shall include the record of the manner and advance time by which the advance publicized notice was given, a statement of how the availability of an agenda of the then known subjects was communicated, the time and specific place of the meetings, and the names of each member of the Governing Body present or absent at each convened meeting.

The minutes of the Governing Body shall be a public record open to inspection by the public upon request at any reasonable time at the office of the Municipal Clerk. Any official action on any question or motion duly moved and seconded shall be taken only by roll call vote of the Governing Body in open session. The record of the Municipal Clerk shall show how each member voted, or that the member was absent and did not vote. (Ref. 84-1408, 84-1409, 84-1441, 84-1413 RS Neb)

### **§1-504 MEETINGS; CLOSED SESSIONS**

(1) Any public body 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. Closed sessions may be held for, but shall not be limited to, such reasons as:

- (a) 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;
  - (b) Discussion regarding deployment of security personnel or devices;
  - (c) Investigative proceedings regarding allegations of criminal misconduct;
- Or**
- (d) 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.

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

## ADMINISTRATIVE

(2) 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.

The public body holding such a closed session 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 members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (a) of this section.

(3) Any member of the public body 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:

(a) The protection of the public interest

**Or**

(b) The prevention of needless injury to the reputation of an individual

Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting and no public body shall 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.

(5) The provisions of this Article shall not apply to chance meetings, or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened and there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power. *(Ref. 84-1410 RS Neb.)*

## ADMINISTRATIVE

### **§1-505 MEETINGS; EMERGENCY MEETINGS**

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 meeting may be held by means of electronic or telecommunication equipment.

The provisions of §1-508 of this Article shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings 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. *(Ref. 84-1411 RS Neb.)*

### **§1-506 MEETINGS; MINUTES**

Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

The minutes shall be public records and open to public inspection during normal business hours.

Minutes shall be written and available for inspection within ten (10) working days, or prior to the next convened meeting, whichever occurs earlier. *(Ref. 84-1412, 84-1413 RS Neb.)*

### **§1-507 MEETINGS; VOTERS**

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 *(Ref. 17-606, 84-616, 84-1413 RS Neb.)*

### **§1-508 MEETINGS; NOTICE TO NEWS MEDIA**

The Municipal Clerk, Secretary, or other designee of each public body 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 at that meeting. *(Ref. 84-1411 RS Neb.)*

## ADMINISTRATIVE

### **§1-509 MEETINGS; PUBLIC PARTICIPATION**

Subject to the provisions of this Article, the public shall have the right to attend and the right to speak at meetings of public bodies and all or any part of a meeting of a public body except for closed meetings called pursuant to Section 1-504 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.

It shall not be a violation of this Section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings.

A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings. No public body shall require members of the public to identify themselves as a condition for admission to the meeting. The body may require any member of the public desiring to address the body to identify himself or herself.

No public body shall, for the purpose of circumventing the provisions of this Article, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

No public body shall be deemed in violation of this Section if it holds its meeting in its traditional meeting place which is located in this State. No public body shall hold a meeting outside the State of Nebraska. The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting.

Public bodies shall make available at the meeting, for examination and copying by members of the public, at least one (1) copy of all reproducible written material to be discussed at an open meeting. (*Ref. 84-1412 RS Neb.*)

### **§1-510 MEETINGS; ORDER OF BUSINESS**

All meetings of the Governing Body shall be open to the public. Promptly at the hour set by law on the day of each regular meeting, the members of the Governing Body, the Municipal Clerk, the Chairperson, and such other Municipal officials that may be required shall take their regular stations in the meeting place, and the business of the Municipality shall be taken up for consideration, and disposition in the manner prescribed by the official agenda on file at the office of the Municipal Clerk.

## ADMINISTRATIVE

### **§1-511 MEETINGS; PARLIAMENTARY PROCEDURE**

The Chairperson shall preserve order during meetings of the Governing Body and shall decide all questions of order, subject to an appeal to the Governing Body.

When any person is called to order, he or she shall be seated until the point is decided. When the Chairperson is putting the question, no person shall leave the meeting room.

Every person present, previous to speaking, shall rise from his or her seat and address himself or herself to the presiding officer and while speaking shall confine himself or herself to the question. When two (2), or more persons rise at once, the Chairperson shall recognize the one who spoke first.

All resolutions or motions shall be reduced to writing before being acted upon, if requested by the Municipal Clerk, or any member of the Governing Body. Every member of the Governing Body who is present when a question is voted upon shall cast his or her vote unless excused by a majority of the Governing Body present or a conflict exists as set forth in this Chapter.

*No motion shall be put or debated unless seconded.* When seconded, it shall be stated by the Chairperson before being debatable.

In all cases where a motion or resolution is entered on the minutes, the name of the member of the Governing Body making the motion or resolution shall be entered also. After each vote, the "Yeas" and "Nays" shall be taken, and entered in the minutes upon the request of any member of the Governing Body.

Before the vote is actually taken, any resolution, motion, or proposed ordinance may be withdrawn from consideration by the sponsor thereof with the consent of the member of the Governing Body seconding the said resolution, motion, or ordinance.

When, in the consideration of an ordinance, different times, or amounts are proposed, the question shall be put on the largest sum, or the longest time.

A question to reconsider shall be in order when made by a member voting with the majority, but such motion to reconsider must be made before the expiration of the third (3<sup>rd</sup>) regular meeting after the initial consideration of the question.

When any question is under debate, no motion shall be made, entertained, or seconded except the previous question, a motion to table, and to adjourn. Each of the said motions shall be decided without debate.

## ADMINISTRATIVE

Any of the rules of the Governing Body for meetings may be suspended by a two-thirds (2/3) vote of the members present.

In all cases in which provisions are not made by these rules, Robert's Rules of Order is the authority by which the Governing Body shall decide all procedural disputes that may arise.

### **§1-512 MEETINGS; CHANGE IN OFFICE**

The Chairperson and Governing Body shall meet at seven (7:00) o'clock P.M. on the first (1<sup>st</sup>) regular meeting in December in each election year, and the outgoing officers and the outgoing members of the Governing Body shall present their reports, and upon the old Governing Body having completed its business, the outgoing members shall surrender their offices to the incoming members, and the outgoing officers shall thereupon each surrender to his or her successor in office all property, records, papers, and moneys belonging to the same.

*(Ref. 17-203.01 RS Neb.)*

### **§1-513 MEETINGS; REORGANIZATION MEETING**

The newly elected Governing Body shall convene at the regular pace of meeting on the first (1<sup>st</sup>) regular meeting of December in each election year immediately after the prior Governing Body adjourns and proceed to reorganize themselves for the ensuing year. The Chairperson pro tempore shall call the meeting to order. The Governing Body shall then proceed to examine the credentials of its members and other elective officers of the Municipality to see that each has been duly and properly elected and to see that such oaths and bonds have been given as are required. After ascertaining that all members and officers are duly qualified, the Governing Body shall then elect one (1) of its own body who shall be styled as Chairperson of the Governing Body. The Chairperson shall then nominate his candidates for appointive offices and said officers shall hold office until their successors are duly appointed and qualified. He or she shall then proceed with the regular order of business. It is hereby made the duty of each and every member of the Governing Body or of its successors in office and of each officer hereafter elected to any office, to qualify prior to the first (1<sup>st</sup>) regular meeting in December following his or her election. Immediately upon the assembly of the newly elected Governing Body upon the first (1<sup>st</sup>) regular meeting in December following the election, each officer elected at the regular Municipal Election shall take possession of his or her office. Each appointive officer who is required to give bond shall qualify by filing the required bond, approved by the Governing Body, in the office of the Municipal Clerk within two (2) weeks from the date of his said appointment; Provided, on said bond shall be endorsed the same oath as required of a Governing Body member. Failure to

## ADMINISTRATIVE

qualify by elective or appointive officers within the time and manner, provided in this Section, shall and does in itself create a vacancy in the office to which said person failing to qualify shall have been elected or appointed. *(Ref. 17-203.01 RS Neb.)*

### **§1-514 MEETINGS; REGULAR MEETING**

The meetings of the Governing Body shall be held in the Community Building. Regular meetings shall be held on the first (1<sup>st</sup>) Tuesday of each month at the hour of seven (7:00) o'clock P.M. and the (3<sup>rd</sup>) Monday of each month at the hour of seven (7:00) o'clock P.M.

At all meetings of the Governing Body a majority of the Body shall constitute a quorum to do business. *(Ref. 17-204, 17-205, 17-210 RS Neb.)*

### **§1-515 MEETINGS; SPECIAL MEETINGS.**

Special meetings may be called by the Chairperson, or by three (3) members of the Governing Body, the object of which shall be submitted to the Governing Body in writing. The call and object, as well as the disposition thereof, shall be entered upon the journal by the Municipal Clerk. On filing the call for a special meeting, the Municipal Clerk shall notify the members of the Governing Body of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a member of the Governing Body known to be out of the state, or physically unable to be present. A majority of the members of the Governing Body shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day and compel the attendance of the absent member. Whether a quorum is present or not, all absent members shall be sent for and compelled to attend.

At the hour appointed for the meeting, the Municipal Clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the Governing Body shall be called to order by the Chairperson, if present, or if absent, by the Chairperson pro tempore. In the absence of both the Chairperson and the Chairperson pro tempore, the members of the Governing Body shall elect a Chairperson pro tempore. All Ordinances passed at any special meeting shall comply with procedures set forth in Chapter 1, Article 6 herein. *(Ref. 17-204, 17-205 RS Neb.)*

## ADMINISTRATIVE

### **ARTICLE 6. ORDINANCES**

#### **§1-601 ORDINANCES; GRANT OF POWER.**

The Governing Body shall have the responsibility of making all ordinances, by-laws, rules, regulations, and resolutions, not inconsistent with the laws of the State of Nebraska, as may be necessary and proper for maintaining the peace, good government, and welfare of the Municipality and its trade, commerce, and security. *(Ref. 17-505 RS Neb.)*

#### **§1-602 ORDINANCES; RESOLUTIONS AND MOTIONS.**

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 (1) time in the presence and hearing of a majority of the members elected to the Governing Body. The issue raised by said resolutions or motions shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the Governing Body. A majority vote shall be required to pass any resolution or motion. The vote on any resolution or motion shall be by roll call vote.

#### **§1-603 ORDINANCES; STYLE.**

The style of all Municipal ordinances shall be:  
"Be it ordained by the Chairperson and Board of Trustees of the Village of Eagle, Nebraska." *(Ref. 17-613 RS Neb.)*

#### **§1-604 ORDINANCES; TITLE.**

No ordinance shall contain a subject not clearly expressed in its title.  
*(Ref. 17-604 RS Neb.)*

#### **§1-605 ORDINANCES; PASSAGE.**

Ordinances, resolutions, or orders for the appropriation of money shall require for their adoption a concurrence of the majority of the members of the Governing Body. Ordinances of a general or permanent nature shall be read by the title on three (3) different days unless three-fourths (3/4) of the Governing Body vote 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 the title and then moved for final passage. Three-fourths (3/4) of the Governing Body may require any ordinance

## ADMINISTRATIVE

to be read in full before final passage under either process. (*Ref. 17-604 RS Neb.*)

### **§1-606 ORDINANCES; PUBLICATION OR POSTING.**

All ordinances of a general nature shall, before they take effect, be published one (1) time within fifteen (15) days after they are passed: (a) in some newspaper published in the Municipality, or if no paper is published in the Municipality, then by posting a written or printed copy in each of three (3) public places in the Municipality; or (b) in book or pamphlet form. (*Ref. 17-613 RS Neb.*)

### **§1-607 ORDINANCES; CERTIFICATE OF PUBLICATION OR POSTING.**

The passage, approval, and publication or posting of all ordinances shall be sufficiently proven by a certificate under the Seal of the Municipality from the Municipal Clerk showing that the said ordinance was passed and approved, and when, and in what paper the same was published, or when, and by whom, and where the same was posted. (*Ref. 17-613 RS Neb.*)

### **§1-608 ORDINANCES; EFFECTIVE DATE; EMERGENCY ORDINANCES.**

(1) Except as provided in subsection (2) of this section, an ordinance for the government of the Municipality which has been adopted by the Governing Body without submission to the voters of the Municipality shall not go into effect until fifteen (15) days after the passage of the ordinance.

(2) In the case of riot, infectious or contagious diseases, or other impending danger, failure of a public utility, or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the Chairperson and the posting thereof in at least three (3) of the most public places in the Municipality. Such emergency ordinance shall recite the emergency, be passed by a three-fourths (3/4) vote of the Governing Body, and be entered of record on the Municipal Clerk's minutes. (*Ref. 17-613, 19-3701 RS Neb.*)

### **§1-609 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 is repealed, except that an ordinance revising all the ordinances of the Municipality and modification to zoning or

## ADMINISTRATIVE

building districts may be adopted as otherwise provided by law. (*Ref. 17-614 RS Neb.*)

### **§1-610 SUPPLEMENTATION OF MUNICIPAL CODE.**

When preparing a supplement to the Municipal Code, the codifier (meaning the person, agency, or organization authorized to prepare the supplement) may make formal nonsubstantive changes in ordinances, and parts of ordinances, included in the supplement, as necessary, to embody them into a unified Code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate sections and subdivisions;
- (2) Provide appropriate catch lines, heading, and titles for sections and other subdivision of the ordinance printed in the supplement and make changes in such catch lines, heading, and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary, to accommodate new material and change existing section or other subdivision numbers;
- (4) Change the words “this ordinance,” or words of the same meaning, to “this chapter,” “this article,” “this section,” etc., as may be appropriate or to “section \_\_\_ or \_\_\_,” which are not filled in prior to adoption of an ordinance;
- (5) Insert appropriate section numbers in references to Code section such as “section \_\_\_” or “sections \_\_\_ to \_\_\_,” which are not filled in prior to adoption of such ordinance;
- (6) Correct the spelling or words, correct obvious typographical errors, correct erroneous division and hyphenation of words, capitalize or de-capitalize words, and make other similar changes in accordance with accepted usage or for consistency with other provisions of the Code;
- (7) Change terminology for consistency with terminology used in other provisions of the Code; and
- (8) Make other nonsubstantive changes necessary to incorporate ordinance material into the Code while preserving the original meaning of the ordinance sections.

In no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code and not repealed by any ordinance.

## ADMINISTRATIVE

### ARTICLE 7. ELECTIONS

#### Article 7. Elections

##### **§1-701 ELECTIONS; JOINT, SPECIAL.**

In lieu of submitting a matter at a separate special Municipal Election, the Municipality may submit such matter or issue at a statewide General or Primary Election or at a scheduled County election or may request the County Clerk to conduct a special election. Such matter or issue must be certified by the Municipal Clerk to the County Clerk or Election Commissioner at least fifty (50) days prior to the election. The Municipal Clerk shall be responsible for the publication or posting of any required special notice of the submission of such matter other than that required to be given of the statewide or county election issues. (*Ref. 32-4,153, 32-4,154 RS Neb.*)

##### **§1-702 ELECTIONS; GENERALLY.**

The Municipal election shall be held in accordance with the provisions of the Revised Statutes of Nebraska. The County Clerk shall have charge of the election and shall have the authority to deputize the Municipal Clerk for election purposes. Charges shall be paid to the County Clerk as set forth in the Revised Statutes of Nebraska.

##### **§1-703 ELECTIONS; TERM OF OFFICE.**

All elected officers of the Municipality shall serve a term of four (4) years and until their successors are elected and have qualified. (*Ref. 17-203.01 RS Neb.*)

##### **§1-704 ELECTIONS; TIE VOTES.**

In the case of a tie vote of any of the candidates in either the Primary or General election, the County Clerk shall notify such candidates to appear at his/her office on a given day and hour to determine the same by lot before the canvassing Board, and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail. (*Ref. 17-107.2(6) RS Neb.*)

##### **§1-705 ELECTIONS; JOINT, GENERAL, NOTICE.**

The County Clerk shall publish in a newspaper designated by the County Board the notice of the election no less than forty (40) days prior to the Primary or General Election. This notice will serve the notice requirement for all Municipal Elections which are held in conjunction with the County. (*Ref. 32-402.01 RS Neb.*)

## ADMINISTRATIVE

### **§1-706 ELECTIONS; FILING FEE.**

Prior to the filing of any nomination papers, there shall be paid to the Municipal Treasurer a filing fee which shall amount to one (1%) per cent of the annual salary for the office for which the candidate will file. Provided, there shall be no filing fee for any candidate filing for an office in which a per diem is paid rather than a salary, or an office for which there is a salary of less than five hundred (\$500.00) dollars per year. No nominating papers shall be filed until the proper Municipal Treasurer's receipt, showing the payment of the filing fee, shall be presented to the election officer with whom the nomination papers are to be filed. *(Ref. 32-513 RS Neb.)*

### **§1-707 ELECTIONS; PETITION CANDIDATES.**

Candidates for any Municipal office in the Municipality may be nominated by petition. Petitions shall contain signatures of registered voters totaling not less than ten (10%) per cent of the total votes received by the candidate receiving the highest number of votes in the Municipality or ward at the preceding general election in which officers were last elected to such office. They shall be accompanied by a treasurer's receipt for the filing fees for the office being sought. All petitions shall provide a space at least two and one half (2½") inches long for written signatures, a space at least two (2") inches long for printed names, and sufficient space for any additional information which may be required. Lines on such petitions shall not be less than one-fourth (1/4") inch apart. Petitions may be designed in such a manner that lines for signatures and other information run the length of the page rather than the width. Petition signers and petition circulators shall conform to the requirements of Section 32-713 RS Neb. Petitions must be filed at least sixty (60) days prior to the State Primary. *(Ref. 32-4, 156, 32-504, 32-513, 32-535, 32-713, RS Neb.)*

### **§1-708 ELECTIONS; CAUCUS CANDIDATES.**

The Municipal Board may, by ordinance, call a caucus for the purpose of nominating candidates for offices to be filled in the Municipal election. Such caucus shall be held at least ten (10) days prior to the filing deadline for such election. Notice of such caucus must be published in one (1) newspaper of general circulation in the Municipality, at least once in each of two (2) consecutive weeks prior to said caucus. The Municipal Clerk shall notify the person so nominated of his nomination and such notification shall take place not less than five (5) days after the said caucus. A candidate so nominated shall not have his name placed upon the ballot unless, not more than ten (10) days after the holding of such caucus, he shall have filed with the Municipal Clerk a written statement accepting the nomination of the caucus and shall have paid the filing fee, if any, for the office for which he was nominated. *(Ref. 17-601.01 through 17-603 RS Neb.)*

## ADMINISTRATIVE

### **§1-709 ELECTIONS; VOTER QUALIFICATIONS.**

Electors shall mean every person of the constitutionally prescribed age or upwards, who shall have the right to vote for all officers to be elected to public office, and upon all questions and proposals, lawfully submitted to the voters at any and all elections authorized or provided for by the Constitution or the laws of the State of Nebraska; Provided, no person shall be qualified to vote at any election unless such person shall be a resident of the State and shall have been properly registered with the election official of the county. (*Ref. 17-602, 32-102 RS Neb.*)

### **§1-710 ELECTIONS; BOARD OF TRUSTEES.**

Board of Trustee members shall be elected from the Municipality at large unless the residents of the Municipality vote to elect its Board members by wards. Board members shall serve for a term of four (4) years and shall be a resident and qualified elector. If the election of Board members takes place by wards, each nominee for Board member 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 candidates' nomination petitions. (*Ref. 32-554 RS Neb.*)

### **§1-711 ELECTIONS; BALLOTS.**

The County Clerk shall provide printed ballots for every Municipal election and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the Municipality. (*Ref. 32-417, 32-418 RS Neb.*)

### **§1-712 ELECTIONS; CERTIFICATE OF ELECTION.**

After the canvass of the vote at the Municipal election, the Municipal Clerk shall prepare a certificate of election for each person whom the Canvassing Board has declared to have received the highest vote, and in the form as nearly as possible prescribed by State law, which shall be signed by the Chair under the seal of the Municipality and countersigned by the Municipal Clerk. The said certificate shall then be delivered to the persons so elected. (*Ref. 32-4,111, 32-4,152 RS Neb.*)

### **§1-713 ELECTIONS; INABILITY TO ASSUME OFFICE.**

In any general election, where the person who received the highest number of votes is ineligible, disqualified, deceased, or for any other reason is unable to assume the office for which he was a candidate, and the electorate had reasonable notice of such disability at the time of the election, the candidate in such election who received the next highest number of votes shall be declared elected, and shall be entitled to the certificate of election; Provided, that any candidate so declared elected received not less than thirty-five (35%) per cent of

## ADMINISTRATIVE

the total number of votes cast for such office in the election. If any of the qualifications of this Section are not met by the candidate to be declared elected, or reasonable notice of the winner's ineligibility is not available to the voters, a vacancy in such office shall be declared to exist at the time of commencement of the term and shall be filled as prescribed by law. (*Ref. 32-537 (7) & (8) RS Neb.*)

### **§1-714 ELECTIONS; RECALL PROCEDURE.**

Any or all of the elected officials of the Municipality may be removed from office by the registered voters of the Municipality in compliance with all requirements of the Statutes of Nebraska.

### **§1-715 ELECTIONS; CANDIDATE QUALIFICATIONS.**

Any person seeking elected office in the Municipality shall be a registered voter prior to holding such office and in addition shall have reached the age of majority. (*Ref. 32-4, 157 RS Neb.*)

### **§1-716 ELECTIONS; 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 twenty (20') feet of the entrance of any polling place room or, if inside the polling place building, within one hundred (100') feet of any voting booth. (*Ref. 32-1221 RS Neb.*)

ADMINISTRATIVE

**ARTICLE 8. FISCAL MANAGEMENT**

**§1-801 FISCAL MANAGEMENT; FISCAL YEAR.**

The fiscal year of the Municipality for the purposes of taxation and appropriations, shall begin the first (1<sup>st</sup>) day in October of each year.  
(*Ref. 17-701 RS Neb.*)

**§1-802 FISCAL MANAGEMENT; PUBLIC FUNDS DEFINED.**

Public funds shall mean all money, including nontax money, used in the operation and functions of governing bodies. For purposes of a county, city, or village which has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the county, city, or village from a licensed lottery operator shall be considered public funds, and public funds shall not include amounts awarded as prizes.  
(*Ref. 13-503 RS Neb.*)

**§1-803 FISCAL MANAGEMENT; FILING BUDGET.** (1) The governing body shall annually prepare a proposed budget statement on forms prescribed and furnished by the auditor. The proposed budget statement shall be made available to the public by the governing body prior to publication of the notice of the hearing on the proposed budget statement pursuant to NRS 13-506. A proposed budget statement shall contain the following information, except as provided by state law:

(a) For the immediately preceding fiscal year, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately stated as to each such source: The unencumbered cash balance at the beginning and end of the year; the amount received by taxation of personal and real property; and the amount of actual expenditures;

(b) For the current fiscal year, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds and separately stated as to each such source: The actual unencumbered cash balance available at the beginning of the year; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. Such statement shall contain the cash reserve for each fiscal year and shall note whether or not such reserve is encumbered. Such cash reserve projections shall be based upon the actual experience of prior years. The cash reserve shall not exceed fifty percent of the total budget adopted exclusive of

## ADMINISTRATIVE

capital outlay items;

(c) For the immediately ensuing fiscal year, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed fifty percent of the total budget adopted exclusive of capital outlay items;

(d) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property (i) for the purpose of paying the principal or interest on bonds issued by the governing body and (ii) for all other purposes;

(e) A uniform summary of the proposed budget statement, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand total of all funds maintained by the governing body; and

(f) For municipalities, a list of the proprietary functions which are not included in the budget statement. Such proprietary functions shall have a separate budget statement which is approved by the governing body as provided in the Municipal Proprietary Function Act.

(2) The actual or estimated unencumbered cash balance required to be included in the budget statement by this section shall include deposits and investments of the political subdivision as well as any funds held by the county treasurer for the governing body and shall be accurately stated on the proposed budget statement.

(3) The governing body shall correct any material errors in the budget statement detected by the auditor or by other sources.

### **§1-804 FISCAL MANAGEMENT; BUDGET HEARING.**

Subsequent to the filing of the proposed budget statement, the Governing Body shall publish a proposed budget and conduct a public hearing on the proposed budget statement. Notice of the place and time of the said hearing, as well as a copy of the proposed budget, shall be published at least five (5) days prior to the date set for the hearing in a newspaper of general circulation in the Municipality. After such hearing, the statement shall be adopted, or amended, and adopted as amended, and a written record shall be made of such hearing. If the adopted budget statement reflects a change from that shown in the published proposed

## ADMINISTRATIVE

budget statement, a summary of such changes shall be published within twenty (20) days after its adoption. *(Ref. 13-506 RS Neb.)*

### **§1-805 FISCAL MANAGEMENT; ADOPTED BUDGET STATEMENT; FILING.**

The Governing Body shall file with and certify to the levying Board on or before September twentieth (20<sup>th</sup>) of each year, and file with the Nebraska State Auditor, a copy of the adopted budget statement, together with the amount of tax to be levied, setting out separately the amount to be levied for the payment of principal or interest on bonds issued by the Governing Body and the amount to be levied for all other purposes. Proof of publication shall be attached to the statements. The Governing Body shall not certify any tax that exceeds the maximum levy prescribed by state law, except that in certifying the amount to be so levied, allowance may be made for delinquent taxes not exceeding five percent (5%) of the amount to be levied plus the actual percentage of delinquent taxes for the preceding tax year. *(Ref. 13-508 RS Neb.)*

### **§1-806 FISCAL MANAGEMENT; EXPENDITURES PRIOR TO ADOPTION OF BUDGET.**

(1) On and after the first day of its fiscal year in 1993 and of each succeeding year and until the adoption of the budget by the Governing Body in September, the Governing Body may expend any balance of cash on hand for the current expenses of the Municipality. Except as provided in subsection (2) 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.

(2) The restriction on expenditures in subsection (1) of this section may be exceeded upon the express finding of the Governing Body that expenditures beyond the amount authorized are necessary to enable the Municipality 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 governing Body 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 Municipality in excess of that authorized by any other statutory provision.

*(Ref. 13-509.01, 13-509.02 RS Neb.)*

### **§1-807 FISCAL MANAGEMENT; BUDGET PROCEDURE.**

The Manual of Instructions for City/Village: Budgets, prepared by the Auditor of Public Accounts, State Capitol, Lincoln, Nebraska 68509 is incorporated by reference for the purposed of proper budget preparation.

## ADMINISTRATIVE

### **§1-808 FISCAL MANAGEMENT; GENERAL PROPERTY TAX.**

The Governing Body shall cause to be certified to the County Clerk the amount of tax to be levied upon the assessed value of all the taxable property of the Municipality for the requirement of the adopted budget for the ensuing year, including all special assessments and taxes. The maximum amount of tax which may be certified and assessed shall not require a tax levy in excess of the legal maximum as prescribed by State law.

*(Ref. 17-702 RS Neb.)*

### **§1-809 FISCAL MANAGEMENT; EXPENDITURES.**

No Municipal official shall have the power to appropriate, issue, or draw any order or warrant on the Municipal Treasury for money, unless the same has been appropriated or ordered by ordinance. No expenditure for any improvement to be paid for out of the general fund of Municipality shall exceed in any one (1) year the amount provided for that improvement in the adopted budget statement.

*(Ref. 17-708 RS Neb.)*

### **§1-810 FISCAL MANAGEMENT; CONTRACT.**

The Governing Body shall, before making any contract in excess of thirty thousand dollars (\$30,000.00) as estimated by the Municipal Engineer, for general improvements, such as water extensions, sewers, public heating system, bridges, or work on streets, or any other work or improvement where the cost of such improvement shall be assessed to the property, advertise for bids. In advertising for bids for any such work, or for the purchase of such equipment, the Governing Body may cause the amount of such estimate to be published therewith.

Such advertisement shall be published once each week for three (3) consecutive weeks in a legal newspaper of general circulation in the Municipality, or by posting a written or printed copy thereof in each of three (3) public places in the Municipality; provided that in the case of a public emergency resulting from infection or contagious diseases, destructive windstorms, floods, snow, an exigency or 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, or war, estimates of costs and advertising for bids may be waived in the emergency ordinance when adopted by a three-fourths (3/4) vote of the Governing Body.

## ADMINISTRATIVE

If after advertising for bids as provided in this section, the Governing Body receives fewer than two (2) bids on a contract for services, material, or labor, or if the bids received by the Governing Body contain a price which exceeds the estimated cost of the project, the Governing Body shall have the authority to negotiate a contract for services, material, or labor in an attempt to complete the proposed project at a cost commensurate with the estimate given.

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

The Municipal bidding procedure shall be waived when material or equipment is purchased at the same price and from the same seller as materials or equipment which has formerly been obtained pursuant to the State bidding procedure.

*(Ref. 17-568.01, 17-613 RS Neb.)*

### **§1-811 FISCAL MANAGEMENT; CLAIMS.**

All claims against the Municipality shall be presented to the Governing Body in writing with a full account of the items, and no claim or demand shall be audited or allowed unless presented as provided for in this section. No costs shall be recovered against the Municipality in any action brought against it for an unliquidated claim which has not been presented to the Governing Body 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 eighty-five (85%) percent of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the municipal treasury for the appropriate fund against which it is to be drawn; provided, that in the event there exists 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 eight-five percent (85%), but not more than one hundred percent (100%) of the current levy for the purpose for which said warrant is drawn. *(Ref. 17-714, 17-715 RS Neb.)*

### **§1-812 FISCAL MANAGEMENT; WARRANTS.**

All warrants drawn upon the Municipal Treasury must be signed by the Chairperson of the Governing Body and countersigned by the Municipal 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

## ADMINISTRATIVE

otherwise paid than upon warrant so drawn. Each warrant shall specify the amount included of such fund. *(Ref. 17-711 RS Neb.)*

### **§1-813 FISCAL MANAGEMENT; TRANSFER OF FUNDS.**

The Governing Body may, whenever during the current fiscal year it becomes apparent due to unforeseen emergencies that there is temporarily insufficient money in a particular fund to meet the requirement of the adopted budget of expenditures for that fund, by majority vote 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 herein. If, as the result of unforeseen circumstances, the revenue of the current fiscal year shall be insufficient, the Governing Body may propose to supplement the previously adopted budget statement and shall conduct a public hearing at which time any taxpayer may appear, or file a written statement protesting the application for additional money. A written record shall be kept of all such hearings. Notice of a place and time for the said hearing shall be published at least five (5) days prior to the date set for the hearing in a newspaper of general circulation in the Municipality.

The published notice shall set forth the time, and place of the proposed hearing, the amount of additional money required, the purpose of the required money, a statement setting forth the reasons why the adopted budget of expenditures cannot be reduced to meet the need for additional money, and a copy of the summary of the originally adopted budget previously published. Upon the conclusion of the public hearing on the proposed supplemental budget, and the approval by the Governing Body, the Governing Body shall file with the County Clerk and the Nebraska State Auditor a copy of the supplemental budget, and shall certify the amount of additional tax to be levied. The Governing Body may then issue warrants in payment for expenditures authorized by the adopted supplemental budget. The said warrants shall be referred to as "registered warrants," and shall be repaid during the next fiscal year from funds derived from taxes levied therefore. *(Ref. 13-510; 13-511 RS Neb.)*

### **§1-814 FISCAL MANAGEMENT; SPECIAL ASSESSMENT FUND.**

All money received on special tax assessments shall be held by the Municipal 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 Municipality for money expended for any such improvement. *(Ref. 17-710 RS Neb.)*

## ADMINISTRATIVE

### **§1-815 FISCAL MANAGEMENT; SINKING FUNDS.**

The Governing Body, subject to the limitations set forth herein, shall have the power to levy a tax not to exceed that prescribed by State law upon the assessed value of all taxable property within the Municipality for a term not to exceed that prescribed by State law in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the Municipality, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, or repair of the approved uses as authorized by State law.

To initiate the said sinking fund, the Governing Body shall declare its purpose by resolution to submit to the qualified electors of the Municipality the proposition to provide the improvement at the next general Municipal election. The resolution shall set forth the improvement, the estimated cost, the amount of the annual levy, the number of years required to provide the required revenue, the name of the sinking fund proposed, and the proposition as it will appear on the ballot. Notice of the said proposition shall be published in its entirety three (3) times on successive weeks before the days of election in a legal newspaper of general circulation in the Municipality.

The sinking fund may be established after the election if a majority or more of the legal votes were in favor of the establishment of the fund. The Governing Body may then proceed to establish the said fund in conformity with the provisions of the proposition, and applicable State law. The funds received by the Municipal Treasurer shall, as they accumulate, be immediately invested with the written approval of the Governing Body in the manner provided by State law. No sinking fund so established shall be used for any purpose or purposes contrary to the purpose as it appeared on the ballot unless the Governing Body is authorized to do so by sixty percent (60%) of the qualified electors of the Municipality voting at a general election favoring such a change in the use of the sinking fund.  
*(Ref. 19-1301 to 19-1304, 77-2337, 77-2339 RS Neb.)*

### **§1-816 FISCAL MANAGEMENT; GENERAL FUND.**

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

### **§1-817 FISCAL MANAGEMENT; DEPOSIT OF FUNDS.**

The Governing Body, at its first (1<sup>st</sup>) meeting in each fiscal year, shall designate one (1) or more banks of approved and responsible standing in which the

## ADMINISTRATIVE

Municipal Treasurer shall keep at all times all money held by him or her; provided, if more than one (1) bank in the Municipality meets the requirements for approved banks as herein defined, the said funds shall be deposited in each of them, and the Municipal Treasurer shall not give a preference to any one (1) or more of them that the money shall be deposited in. A bond shall be required from all banks so selected in a penal sum which equals the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or a pledge of sufficient assets of the bank to secure the payment of all such deposits. *(Ref. 17-607, 77-2362 to 77-2365 RS Neb.)*

### **§1-818 FISCAL MANAGEMENT; INVESTMENT OF FUNDS.**

Whenever a Municipality 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 Governing Body may invest any such surplus in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized by law and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. *(Ref. 17-608, 17-609, 21-1316.01, 77-2341 RS Neb.)*

### **§1-819 FISCAL MANAGEMENT; BOND ISSUES.**

The Governing Body may, after meeting all the requirements of State law, issue bonds, fund bonds, and retire bonds for such purposes as may be permitted by State law. The Governing Body 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. *(Ref. 10-201 to 10-411, 10-601 to 10-614, 12-1001, 17-529.01, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 to 18-1805, 23-343.13, 39-836 RS Neb.)*

### **§1-820 FISCAL MANAGEMENT; SPECIAL IMPROVEMENT DISTRICTS; SPECIAL ASSESSMENTS.**

The Municipality's Governing Body may, by ordinance, create an improvement district for the purpose of constructing, replacing, reconstructing, or repairing a new or existing street, alley, water line, sewer line, or any other such improvement. Such improvement district shall be created by ordinance. After the passage, approval and publication of such ordinance, the Municipal Clerk shall publish notice of the creation of the district or districts for two (2) consecutive weeks in a newspaper of general circulation within the Municipality.

## ADMINISTRATIVE

To defray the costs and expenses of such improvements, the Governing Body shall have power and authority to levy and collect special taxes and assessments upon the lots and pieces of ground found especially benefited thereby, whether or not such properties were previously assessed for the same general purpose. The Governing Body shall review all such special assessments made. Such assessments shall be made by the Governing Body at a special meeting, by a resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements, and the amount charged against the same which, with a vote thereon by yeas and nays, shall be spread at length upon the minutes; a notice of the time of holding such meeting, and the purpose for which it is to be held, shall be published in some newspaper published or of general circulation in the Municipality at least four (4) weeks before the same shall be held, or in lieu thereof, personal service may be had upon persons owning or occupying property to be assessed.

All such assessments shall be known as special assessment for improvements, and shall be levied and collected as a separate tax, in addition to the taxes for general revenue purposes, and shall be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other Municipal taxes. All special assessments shall be certified to the County Clerk.  
*(Ref. 17-511, 17-524, 18-1751 RS Neb.)*

### **§1-821 FISCAL MANAGEMENT; MUNICIPAL PROPERTY; IMPROVEMENT DISTRICTS; LAND ADJACENT.**

Supplemental to any existing law on the subject, the Governing Body may include land adjacent to the Municipality when creating an improvement district, such as a sewer, paving, water, water extension, or sanitary sewer extension district. The Governing Body shall have power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefited thereby, except as provided in section 1-822. *(Ref. 19-2427 RS Neb.)*

### **§1-822 FISCAL MANAGEMENT; STREETS; DEFERRAL FROM SPECIAL ASSESSMENTS.**

Whenever the Governing Body of a Municipality creates an improvement district as specified in section 1-820 which includes land adjacent to the Municipality which is within an agricultural use zone and is used exclusively for agricultural use, the owners of record title of such adjacent land may apply for a deferral from special assessments.

For purposes of this section, the terms agricultural use and agricultural use zone shall have the meaning specified in Neb. Rev. Stat. § 77-1343 as amended from time to time. Any owner of record title eligible for the deferral granted by this section shall, to secure such assessment, make application to the Governing Body of the Municipality within ninety (90) days after creation of an improvement

## ADMINISTRATIVE

district as specified in section 1-820. Any owner of record title who makes application for the deferral provided by this section shall notify the County Register of Deeds of such application in writing prior to approval by the Governing Body.

The Governing Body shall approve the application of any owner of record title upon determination that the property:

- A. is within an agricultural use zone and is used exclusively for agricultural use, and
- B. the owner has met the requirements of this section.

The deferral provided for in this section shall be terminated upon any of the following events:

- A. Notification by the owner of record title to the Governing Body to remove such deferral;
- B. Sale or transfer to a new owner who does not make a new application within sixty (60) days of the sale or transfer, except as provided in subdivision 3 of this section;
- C. Transfer by reason of death of a former owner to a new owner who does not make application within one hundred twenty-five (125) days of the transfer;
- D. The land is no longer being used as agricultural land; or
- E. Changing of zoning to other than an agricultural zone.

Whenever property which has received a deferral pursuant to this section becomes disqualified for such deferral, the owner of record title of such property shall pay to the Municipality an amount equal to:

- A. The total amount of special assessments which would have been assessed against such property, to the extent of special benefits, had such deferral not been granted; and
- B. Interest upon the special assessments not paid each year at the rate of six (6%) percent from the dates at which such assessments would have been payable if no deferral had been granted.

In case where the deferral provided by this section is terminated as a result of a sale or transfer described subdivision (2) or (3) of this section the lien for assessments and interest shall attach as of the day preceding such sale or transfer. (*Ref. 19-2428 to 19-2431 RS Neb.*)

## ADMINISTRATIVE

### **§1-823 FISCAL MANAGEMENT; SALES AND USE TAX.**

There is hereby imposed a sales and use tax of one (1%) percent upon the same transaction within the Municipality of Eagle which the State of Nebraska is authorized to impose a sales and use tax pursuant to Nebraska Revenue Act of 1967, as amended from time to time. (*Ref. 77-27,142 through 77-27,148, RS Neb.*)

### **§1-824 FISCAL MANAGEMENT; MUNICIPAL LOTTERY.**

The Municipality of Eagle, Nebraska, may establish and conduct a lottery as permitted under the Nebraska County and City Lottery Act for the purposes of community betterment. (*Ref. 9-601 to 9-653, and 32-4,153 RS Neb.*)

### **§1-825 FISCAL MANAGEMENT; COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE.**

(1) The Municipality 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.

(2) The Municipality shall:

- (a) File notice of the assessments and the amount of assessment being levied for each lot or tract of land to the Register of Deeds; and
- (b) File a release of assessment upon final payment of each assessment with the Register of Deeds. (*Ref. 18-1216 RS Neb.*)

### **§1-826 FISCAL MANAGEMENT; PROPERTY TAX LEVY; AUTHORITY TO SET.**

Upon receipt of the preliminary levy from the County Clerk, the Governing Body may either accept or change the amount of preliminary levy established by the County. If the amount of the preliminary levy is deemed to be adequate and sufficient by the Governing Body, the preliminary levy shall become the final levy without further action by the Governing Body.

## ADMINISTRATIVE

The Governing Body may reject the preliminary levy and pass by a majority vote a resolution or ordinance setting the levy at a different amount prior to October fifteenth (15<sup>th</sup>). Such resolution or ordinance shall only be passed after the Governing Body holds a special public hearing called for such purpose and after notice of the hearing is published in a newspaper of general circulation within the Municipality at least five (5) days prior to the hearing.

Any resolution or ordinance setting a tax levy under this section shall be forwarded to the County Clerk and certified. (*Ref. 77-1601.01, 77-1601.02 RS Neb.*)

## ADMINISTRATIVE

### **ARTICLE 9. COMPENSATION**

#### **§1-901 COMPENSATION; MUNICIPAL OFFICIALS.**

The Compensation of any elective official of the Municipality 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 Governing Body, 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. He or she may be rehired after the term of office during which he or she resigned at a greater salary. All salaries shall be set by ordinance of the Governing Body and will be available for public inspection at the office of the Municipal Clerk.  
*(Ref. 17-209.02, 17-612 RS Neb.)*

#### **§1-902 COMPENSATION; ADDITIONAL COMPENSATION.**

Pursuant to Section 1-901 of the Eagle Municipal Code, in addition to all other compensation otherwise provided to members of the Governing Body, the following compensation is hereby authorized. When a Governing Body member is required to absent themselves from their normal employment for a period of at least one (1) hour in order to conduct necessary Municipal business which, because of its nature and the exigencies of the situation may not be conducted at a time outside of the member's regular employment hours, said Governing Body member shall be compensated at a rate equivalent to the compensation provided Governing Body members for attendance at Municipal meetings for each such instance.

No Governing Body member may be so compensated more than one (1) time in any twenty-four (24) hour period; provided, however, a Governing Body member may, in addition, be regularly compensated for attendance at a regular or special Governing Body meeting within the same twenty-four (24) hour period.

#### **§1-903 COMPENSATION; CONFLICT OF INTEREST.**

For purposes of this Section officer shall mean

- A. any member of any Board or Commission of the Municipality,
- B. any Appointed Official if such Municipal Official,

## ADMINISTRATIVE

- (1) serves on a Board or Commission which spends and administers its own funds, and,
  - (2) is dealing with a contract made by such Board or Commission, or
- C. any elected Municipal Official.

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.

No officer of the Municipality shall be permitted to benefit from any contract to which the Municipality is a party. The existence of such 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 Municipality or by any resident thereof and must be brought within one (1) 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 Municipality has benefited thereby.

The prohibition in this Section shall apply only when the officer or his or her parent, spouse, or child,

- (a) has a business with which the individual is associated or business association which shall mean a business;
  - (1) in which the individual is a partner, director, or officer or
  - (2) in which the individual or a member of the individual's immediate family is a stockholder of a closed corporation stock worth one thousand (\$1,000.00) dollars or more at fair market value or which represents more than five (5%) percent equity interest, or is a stockholder of publicly traded stock worth ten thousand (\$10,000.00) dollars or more at fair market value or which represents more than ten (10%) percent equity interest, or
- (b) will receive a direct pecuniary fee or commission as a result of the contract;  
Provided however, if such officer
  - (1) is an employee of the business involved in the contract and
  - (2) 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.

The provisions of this Section shall not apply if the interested officer:

- (a) 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;
- (b) Does not vote on the matter of granting the contract, except that if the

## ADMINISTRATIVE

number of members of the Governing Body declaring an interest in the contract would prevent the Governing Body, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and

- (c) Does not act for the Municipality as to inspection or performance under the contract in which he or she has an interest.

The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any Municipality by a financial institution shall not be considered a contract under the provisions of this Section. The ownership of less than five (5%) percent of the outstanding shares of a corporation shall not constitute an interest within the meaning of this Section.

Notwithstanding the provisions of subsection A through C above, if an officer's parent, spouse or child is an employee of the Municipality, 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 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 the interested officer shall be subject to applicable competitive bidding requirements and shall be fair and reasonable to the Municipality.

The Municipal Clerk shall maintain, separately from other records, a ledger containing the information listed in subsection 1 through 5, below, about every contract entered into by the Municipality in which an officer has an interest as specified above for which disclosure is as provided in subsection A through C above. Such information shall be kept in the ledger for five (5) 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 Municipality involved;
4. Amount of the contract; and
5. Basic terms of the contract.

The information supplied relative to the contract shall be provided to the Clerk not later than ten (10) days after the contract has been signed by both parties. The ledger kept by the Clerk shall be available for public inspection during the normal working hours of the office in which it is kept.

An open account established for the benefit of any Municipality 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

## ADMINISTRATIVE

pursuant to this Section shall be filed within ten (10) 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.

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. §§ 49-47,103.01 through 49-14,103.03 shall be guilty of a Class V misdemeanor.

The Municipality may enact ordinances exempting from the provisions of this section, contracts involving one hundred (\$100.00) dollars or less in which an officer of such Municipality may have an interest.

No officer, including volunteer firefighters and ambulance drivers, shall receive any pay or perquisites from the Municipality other than his or her salary. The Governing Body 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 Municipality. (Ref. 17-611, 18-305 to 18-312, 49-14,103.01 to 49-14,103.03, 70-624.04 RS Neb))

### **§1-904 COMPENSATION; MILEAGE REIMBURSEMENT.**

The rate for reimbursement of mileage expense incurred by elected and appointed officials, employees or authorized volunteers shall be at the applicable rate established by the IRS periodically.

### **§1-905 COMPENSATION; SALARIES OF OFFICIALS.**

The salaries of the Chair and individual members of the Municipal Board of Trustees are hereby fixed, and will be paid on a per meeting, or per diem, basis. The provisions shall commence and apply to the newly installed Board at the first meeting of December 2008 and continue until modified by ordinance thereafter, as follows :

Chair – per meeting: \$110.00

Trustees – per meeting: \$110.00

**Compensation for employees shall be set by separate ordinance.**

## ADMINISTRATIVE

### **ARTICLE 10. PENAL PROVISION**

#### **§1-1001 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 five hundred (\$500.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.