

Chapter 2

ADMINISTRATION*

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ARTICLE I. IN GENERAL

Sec. 2-1. Administrative code--establishment.

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Cross reference - Taxation, Sec. 20-1 et seq.

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In order to establish a more effective and efficient Village administrative government, it is the policy of the Village that an administrative code shall be established as resolved by the Board of Trustees. (Ord. of 6-23-73)

Sec. 2-2. Same--responsibility for creation, maintenance, administration.

The Village Administrator, with the advice and consent of the President and Board of Trustees, shall be responsible for the creation, maintenance and administration of the Administrative Code. (Ord. of 6-23-73)

Sec. 2-3. Same--contents.

The Administrative Code shall include, but not be limited to, the following items:

- (1) Organizational chart of the Village government.
- (2) Functions of the several departments.
- (3) Job descriptions.
- (4) Administrative procedures by departments.
- (5) Personnel policy and procedures. (Ord. of 6-23-73)

Sec. 2-4. Same--annual review.

The Administrative Code shall be reviewed annually by the President and Board of Trustees. (Ord. of 6-23-73)

Sec. 2-5. Wages for laborers, mechanics and other workmen employed in public works.

- (a) To the extent and as required by the Prevailing Wage Act, 820 ILCS 130 et seq., effective July 1, 1941, and as amended from time to time, the general prevailing rate of hourly wages for work of a similar character on public works in this locality and including the general prevailing rate of hourly wages for legal holiday and overtime work, shall be paid to all laborers, workers and mechanics employed by or on behalf of the Village. The general prevailing rate of hourly wages for the Village is hereby ascertained to be the same as the prevailing rate of wages for construction work in McHenry and Lake Counties as determined by the Illinois Department of Labor during the month of June of each calendar year.

The definition of all terms appearing in the Act are hereby incorporated into this Section by reference as if fully set forth herein.

- (b) Only such laborers, workers and mechanics as are directly employed by contractors or subcontractors in actual construction work on the site by the building or construction job, and laborers, workers and mechanics engaged in the transportation of materials and equipment to or

from the site, but not including the transportation by the sellers and suppliers or the manufacture or processing of materials or equipment, in the execution of any contract or contracts for public works with the Village shall be deemed to be employed upon public works and entitled to the general prevailing rate of hourly wages as herein ascertained.

- (c) The Village shall adopt as its own the Department of Labor's determination of the prevailing rate of wages for McHenry and Lake Counties and shall publicly post or keep available for inspection by any interested party in the Village Clerk's office the prevailing rate of wage as determined by the Department of Labor during the month of June of each calendar year.
- (d) The Village Clerk shall promptly file a certified copy of such prevailing rate of wage in the office of the Secretary of State and the Department of Labor in Springfield, Illinois.
- (e) The Village Clerk shall, within 30 days of filing with the Secretary of State and Department of Labor, cause to be published in a newspaper of general circulation within the area that the determination is effective and a notice of the determination. The Village Clerk shall mail a copy of this determination to any employer, and to any association of employees who have filed their names and addresses, requesting copies of any determination stating the particular rates and the particular class of workers whose wages will be affected by such rates. (94-07, Sec. 1, 3-17-94)

Sec. 2-6. Official Comprehensive Plan confirmed and adopted.

- (a) The official Comprehensive Plan of the Village of Fox River Grove, Illinois, is hereby, in all things, confirmed and adopted as the official Comprehensive Plan of the Village of Fox River Grove, Illinois.
- (b) The official Comprehensive Plan and this Section shall be in full force and effect from and after the passage, approval, filing, and recording of the official Comprehensive Plan and this section as provided by law. (Ord. No. 74-14, Sec. 1, 2, 11-13-74)
Editor's note--Ord. No. 74-14, Sec. 1, 2, being non-amendatory of this Code, has been included herein as Sec. 2-6 at the discretion of the editors.

Sec. 2-7. Reimbursement procedures for time and materials expended by the Village in review of petitions and plan for lands to be rezoned or annexed.

- (a) The Village President, Board of Trustees or the Village Administrator may request that any Village consultant, department head or employee review petitions, plats, plans and documents pertaining to (i) the re-zoning or annexation of land, (ii) the development or redevelopment of land, or (iii) relating to the public improvement portion of any private project either within or outside of the corporate boundaries of the Village of Fox River Grove. Village consultants include, but are not limited to, the Village Attorney, Village Engineer, Village Planner and Village Forester. Public improvements include, but are not limited to, right-of-way, water systems, sanitary sewer systems, storm water systems, streets, sidewalks, curb and gutter, street

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lighting and street signage. The re-zoning of land includes, but is not limited to, requests for variations, special uses, text amendments, and changes in zoning classification.

- (b) The cost to the Village of all work performed by Village staff and consultants pursuant to Section 2-7(a) shall be recoverable by the Village from the owner or developer when the services performed involve either (i) a new building or an addition to an existing building except if the building is a single family dwelling unit, (ii) a home occupation or non-single family residential use of an existing building or parcel of land, (iii) property containing more than two (2) lots, including but not limited to lots that are intended to be developed or which have been developed with single family dwelling units, or (iv) a property containing more than one (1) dwelling unit on a lot. Recoverable costs include, but are not limited to, costs incurred in the design, installation, review, inspection, cleaning, maintenance, repair and replacement of the public improvement portion of any private project prior to its acceptance by the Village, as well as costs related to the review of all petitions, plans, plats and documents. Time spent by full-time employees of the Village providing general information, interpreting regulations, concept reviews, or attendance at public meetings will not be recoverable. All work performed by Village consultants shall be billed to the owner or developer in the amount which the Village was billed by the consultants. The Village will issue invoices for any work performed by Village consultants and employees for which the Village is entitled to recover the cost pursuant to this Section or any other provisions of this Code. Invoices not paid in full within thirty (30) days shall be considered to be delinquent. All fees, charges and deposits established herein are in addition to the fees charged, reimbursement of cost required, and security required pursuant to Chapter 6, "Building and Building Regulations", Chapter 18 "Streets and Sidewalks", Chapter 19, "Subdivisions", and Chapter 23 "Water and Sewers", provided that a developer or owner shall not be billed twice for the same costs incurred by the Village or the same work performed by Village employees.
- (c) Planning consultants, engineers, attorneys, foresters and any other consultants shall submit itemized bills for service, materials and out-of-pocket costs incurred in performing tasks falling within the scope of Section 2-7(a). Standard hourly or per diem rates normally billed to the Village shall be charged. The time spent by Village employees in performing tasks falling within the scope of Section 2-7(a) shall be billed to the developer or owner on an hourly basis calculated by multiplying the number of hours spent by the Village employee by 150% of the average hourly cost to the Village for the employee's salary, to cover the cost of the employee's salary, fringe benefits (35%) and overhead (15%).
- (d) The Village may require that a developer or owner of property deposit with the Village an amount equal to all or a portion of the estimated costs the Village will incur that are recoverable from the developer or owner pursuant to Section 2-7(b). The Village Administrator shall determine the amount which a Developer shall deposit in escrow, provided that unless approved by the Village's Corporate Authorities, the amount to be deposited in escrow shall not exceed twenty five thousand (\$25,000.00) dollars. Amounts held by the Village in escrow pursuant to this Section shall not be used to pay bills issued to the developer or owner by the Village

pursuant to this Section 2-7 or any other provision of this Code. The Village may utilize funds deposited in escrow to pay amounts that are owed by the developer or owner to the Village which are delinquent. The Village may also utilize the funds deposited in escrow to pay the cost of completing an unfinished public improvement. In addition to the escrow deposit, the Village when authorized by the Village's Corporate Authorities may also require that a bond letter of credit or similar security be established for the life of a project to ensure completion of public improvements. The amount of such a bond, letter of credit or similar security shall be determined by the Village Engineer. The Village may issue a stop work order on a project until all delinquent bills are paid and the escrow is fully replenished. If any developer or owner fails to maintain the required escrow or fails to make payment to the Village of any amount due under this Section 2-87 or any other provision of this Code, the Village may withhold the issuance of a building permit or occupancy permit.

- (e) The unused portion of an amount deposited to be held in escrow by the Village pursuant to Section 2-7(d) will be refunded upon the approval of the Corporate Authorities after receipt of payment of all invoices and the completion of all public improvements.
(Ord. No. 98-30, Sec. 1, 7-16-98; Ord. No. 2011-07, Sec. 2, 3-17-11)

Sec. 2-8. Fiscal year.

Beginning May 1, 1997, the fiscal year for the Village of Fox River Grove shall begin on May 1 and end on April 30 the next calendar year. The 1996-97 fiscal year for the Village of Fox River Grove shall end on April 30, 1997. (Ord. No. 96-50, Sec. 1, 12-19-96)

Sec. 2-9. Fee for dishonored or unpaid checks and drafts

If any person tenders a check, draft or other negotiable instrument to the Village as payment, in full or in part, of a fee, tax, bill, charge or other monetary obligation owed to the Village, and the check, draft or other negotiable instrument is dishonored or otherwise returned to the Village without payment, the person who tendered the check, draft or other negotiable instrument to the Village shall be required to pay the Village the amount of twenty five dollars (\$25.00) in addition to the amount of any fee, tax, bill, charge, or other obligation for which the dishonored or returned check, draft or other negotiable instrument was tendered. (Ord. No. 92-32, Sec. 1, 11-18-92)

Sec. 2-10. Leasing of Village Property

The Village President is authorized to enter into leases of property owned by the Village for terms not to exceed one (1) year provided that the Village President determines that the property is no longer necessary, appropriate, required for the use of, profitable to or for the best interests of the Village and, provided further that the Village's Corporate Authorities shall approve the length of the lease and the amount of rent to be paid to the Village pursuant to the lease. (Ord. No. 97-43, Sec. 1, 11-20-97)

Sec. 2-11. Fees for Police Department reports.

The following fees shall be charged for furnishing, copying and certifying Police Department reports, provided that no fee shall be charged if a report is furnished, copied and/or certified in response to a subpoena served on the Village which is accompanied by the applicable statutory witness or appearance fee:

- (a) Accident reports - \$5.00 per report.
- (b) Reports relating to arrests for felonies and for violations of Section 11-501 of the Illinois Vehicle Code, "Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof" (625 ILCS 5/11-501) or Section 15-39 of this Code, "Driving while under the influence of alcohol, other drug, or combination thereof" - \$25.00 per report.
- (c) All other reports - \$5.00 for the first page and \$1.00 for each additional page.
- (d) Radio (Audio) Traffic - \$30.00/hour
- (e) Video - \$20.00 (Ord. No. 05-33, Sec. 1, 10-20-05; Ord. No. 06-15, Sec. 1, 4-20-06)

Sec. 2-12. Fees for Fingerprinting.

The following fees shall be charged whenever a person requests to be fingerprinted by the Police Department for reasons not related to the operation of the Police Department or the Village:

- (a) Fingerprinting for Adult Residents. Persons who are residents of the Village of Fox River Grove and who are eighteen (18) years or older or an emancipated minor who request that they be fingerprinted by the Police Department shall be charged a fee of ten (\$10.00) dollars per set of fingerprints.
- (b) Fingerprinting for Adult Non-Residents. Persons who are not residents of the Village of Fox River Grove and who are eighteen (18) years or older or an emancipated minor who request that they be fingerprinted by the Police Department shall be charged a fee of twenty-five (\$25.00) dollars per set of fingerprints.
- (c) Fingerprinting of Children. Unemancipated minors who are less than eighteen (18) years old shall not be fingerprinted by the Police Department unless the minor's parent or legal guardian consents to the minor being fingerprinted, unless the fingerprinting is done in connection with the operation of the Police Department or the Village. There shall be no fee for the fingerprinting of unemancipated minors who reside in the Village of Fox River Grove. Unemancipated minors or their parents or guardian who do not resident in the Village shall be charged a fee of twenty-five (\$25.00) dollars for each set of fingerprints. (Ord. No. 07-12, Sec. 1, 4-19-07)

Secs. 2-13-2-15. Reserved.

ARTICLE II. OFFICERS AND EMPLOYEES GENERALLY *

Sec. 2-16. Application.

The provisions, of this article shall apply alike to all officers and employees of the Village, regardless of the time of the creation of the office or position or the time of the appointment of the officer or employee. (Code 1958, Sec. 8.101)

Sec. 2-17. Appointment of officers.

All appointive officers of the Village shall be appointed by the Village President with the advice and consent of the Board of Trustees, except as otherwise provided by this Code or by state law. (Code 1958, Sec. 8.102)

Sec. 2-18. Terms of appointive officers.

Unless otherwise specifically provided, every appointive officer of the Village shall hold office until the first day of May following his appointment or until his successor is appointed and qualified. (Code 1958, Sec. 8.103)

Sec. 2-19. Filling vacancies in appointive office.

In case of a vacancy in any appointive office, it shall be filled in the same manner as original appointments are made, in the absence of any provision to the contrary. (Code 1958, Sec. 8.103)

Sec. 2-20. Duty of officers to turn money over to Village Treasurer together with statement of source.

Every officer of the Village shall at least once each month turn over all money received by him in his official capacity, to the Village Treasurer with a statement showing the source from which the money was received. (Code 1958, Sec. 8.104)

Sec. 2-21. Oath of office required.

*Cross reference - Officers and employees not liable to fine for failure to perform duties, Sec. 1-9; the Board of Trustees, Sec. 2-39 et seq.; the Village President, Sec. 2-68 et seq.; the Village Manager, Sec. 2-84 et seq.; the Village Clerk, Sec. 2-100 et seq.; the Village Treasurer, Sec. 2-121 et seq.; the Village Attorney, Sec. 2-154 et seq.; the Superintendent of Streets & Parks, Sec. 2-171 et seq.; the Building Inspector, Sec. 6-19 et seq.; Director of Municipal Civil Defense Organization, Sec. 7-4; the Health Officer, Sec. 11-16 et seq.; Chief of Police, Sec. 17-30 et seq.

Every officer of the Village shall, before entering upon his duties, take the oath of office prescribed by statute. (Code 1958, Sec. 8.105)

State law reference--Oath of office for municipal officers, 65 ILCS 5/3.1-10-25, 5/5-3-9

Sec. 2-22. Salaries.

All officers and employees of the Village shall receive such salary as may be from time to time provided by ordinance or resolution of the Board of Trustees. (Code 1958, Sec. 8.106)

Sec. 2-23. Assignment of duties to appointive officers; disputes regarding powers and duties.

The Board of Trustees shall have the power to assign to any appointive officer any duty which is not assigned by this Code or other ordinance of the Village to some other specific officer and shall determine disputes or questions relating to the respective powers or duties of appointive officers. (Code 1958, Sec. 8.107)

Sec. 2-24. Records to be open for inspection by Village President and Board of Trustees.

All records kept by any officer of the Village shall be open for inspection by the Village President or any member of the Board of Trustees at all reasonable times, whether or not such records are required to be kept by statute or the provisions of this Code. (Code 1958, 1.102, 8.108)

Sec. 2-25. Bond.

Every officer and employee shall, if required by the Board of Trustees, upon entering upon the duties of his office, give a bond in such amount and with such sureties as may be determined by the Board of Trustees, conditioned upon the faithful performance of the duties of his office or position. (Code 1958, Sec. 8.109)

State law reference--Bonds of officers and employees, 65 ILCS 5/3.1-10-30

Sec. 2-26. Surrender of effects of office.

Every officer and employee of the Village, upon the expiration of his term for any cause whatsoever, shall deliver to his successor all books and records which may be the property of the Village, and if no successor has been appointed within one (1) week after the termination of office such property shall be delivered to the Village Clerk or Village Treasurer. (Code 1958 Sec. 8.112)

Sec. 2-27. Impersonation of officer or employee.

It shall be unlawful for any person to impersonate, without lawful authority, any Village officer or employee. (Code 1958, Sec. 8.113)

State law reference--False personation, 720 ILCS 5/31-1

Sec. 2-28. Interfering with officers or employees.

It shall be unlawful for any person to interfere with or hinder any officer or employee of the Village while engaged in the duties of his office or employment. (Code 1958, Sec. 8.114)

State law reference--Obstructing peace officers, 720 ILCS 5/32-5

Secs. 2-29--2-38. Reserved.

ARTICLE III. THE BOARD OF TRUSTEES*

DIVISION 1. GENERALLY

Sec. 2-39. Composition; term; powers and duties.

The Board of Trustees, consisting of six (6) members, shall be elected to office for a four (4) year term, according to the method provided by statute. This Board shall be the legislative department of the Village government, and shall perform such duties and have such powers as may be delegated by statute to it. (Code 1958, Sec. 2.101)

State law references--Board of Trustees to have legislative powers, 65 ILCS 5/5-3-6; election of Board of Trustees, 65 ILCS 5/5-2-12 et seq.

Sec. 2-40. Oath of office.

The members of the Board of Trustees shall take the oath of office prescribed by statute. (Code 1958, Sec. 2.102)

State law reference--Oath of office of Board of Trustees, 65 ILCS 5/3.1-10-25, 5/5-3-9

Sec. 2-41. Stipend.

The stipend for the members of the Village Board of Trustees who are elected or appointed to fill a vacancy for a term of office which begins on or after on or after May 1, 1997, shall be seventy-five (\$75) dollars per meeting up to a maximum of two hundred twenty-five (\$225) dollars per month, which will be paid every three (3) months. (Ord. No. 96-45, Sec. 1, 10-17-96; Ord. No. 11-02, Sec. 1, 1-20-11)

State law reference--Compensation of Board of Trustees, 65 ILCS 5/3.1-50-15

Sec. 2-42. Committees of Board of Trustees.

(a) The standing committees of the Village Board of Trustees shall be as established from time to time by the resolution of the Board.

(b) Special committees shall be created from time to time as directed by the Board of Trustees.

* Cross reference - Village President to be President of Board of Trustees, Sec. 2-71

(c) All committees shall be appointed by the President. (Code 1958, Sec. 2.208)

Sec. 2-43. Commencement of term of office.

The term of office of a person elected to be a member of the Village's Board of Trustees shall commence on the first day of the month of May. (Ord. No. 81-08, Sec. 1, 3-18-81; Ord. No. 83-03, Sec. 1, 6-15-83)

Secs. 2-44-2-47. Reserved.

DIVISION 2. MEETINGS

Sec. 2-48. Time and place of regular meetings.

The Village Board of Trustees shall hold its regular meetings on the third Thursday of each month at 7:00 p.m. and no notice of such regular meetings shall be required except as provided in the Illinois Open Meetings Act (5 ILCS 120/1 et seq.). The meeting place of the Board of Trustees shall be at the Village Hall unless otherwise ordered by the Board or the Village President. The Village President or any three (3) trustees of the Village may direct that a regular monthly meeting of the Board of Trustees be rescheduled from the third Thursday of a month. Notice of any such rescheduling of a regular monthly meeting of the Village Board of Trustees shall be given in accordance with the Illinois Open Meetings Act. (Code 1958, Sec. 2.103; Ord. of 9-10-73, Sec. 1; Ord. No. 76-14, Sec. 1, 9-8-76; (Ord. No. 02-13, Sec. 1, 6-27-02; Ord. No. 07-05, Sec. 1, 2-22-07)

State law reference--Authority to enact ordinance setting meetings, 65 ILCS 5/3.1-40-25

Sec. 2-49. Special meetings; call; notice.

Special meetings of the Village Board of Trustees may be called by the President of the Village or any three (3) trustees upon at least twenty-four (24) hours' notice to all members and the President; provided, that, if all of the trustees are present at a special meeting no notice of the meeting shall be necessary and such notice shall be deemed waived. (Code 1958, Sec. 2.103)

State law reference--Special meetings; call; authority to call: 5 ILCS 120/2.02, 5 ILCS 120/2.03, 65 ILCS 5/3.1-40-25

Sec. 2-50. President to be presiding officer.

The Village President shall be the presiding officer of all regular and special meetings of the Board of Trustees and at all times when the Board meets as a committee of the whole. (Code 1958, Sec. 2.104)

State law reference--Presiding officer at meetings of Board, 65 ILCS 5/3.1-40-30

Sec. 2-51. Quorum; required votes.

A majority of the Village Board of Trustees shall constitute a quorum to do business. No ordinance shall be passed except upon the favorable vote of a majority of the elected members, as provided by statute. (Code 1958, Sec. 2.207)

State law references--Quorum at meetings of Board, 65 ILCS 5/3.1-40-20

Sec. 2-52. Reconsideration of prior action; prerequisites.

No vote or action of the Board of Trustees shall be rescinded at any special meeting of the Board of Trustees unless there be present at such special meeting as many members of the Board of Trustees as were present at the meeting when such vote or action was taken, as provided by statute. (Code 1958, Sec. 2.202)

State law reference--For similar provisions, see 65 ILCS 5/3.1-40-55

Sec. 2-53. When resolutions to be in writing.

Any resolution submitted to the Board of Trustees shall be reduced to writing before being voted upon on the request of any two (2) members of the Board. (Code 1958, Sec. 2.208)

Sec. 2-54. Consent of Board required to address meetings; exceptions.

No person other than the Village President or a member of the Board of Trustees shall address that body at any regular or special meeting except upon consent of a majority of the members present. (Code 1958, Sec. 2.204)

Sec. 2-55. Robert's Rules of Order applicable.

Robert's Rules of Order as revised shall govern the deliberations of the Board of Trustees except when in conflict with any of the provisions of this division. (Code 1958, Sec. 2.206)

Sec. 2-56. Suspension of rules.

The rules of order, other than those prescribed by statute, may be suspended at any time by the consent of a majority of the members present at any meeting. (Code 1958, Sec. 2.205)

Sec. 2-57. Disturbing meetings.

It shall be unlawful for any person to disturb any meeting of the Village Board of Trustees or of any committee thereof. (Code 1958, Sec. 2.209)

Secs. 2-58--2-67. Reserved.

ARTICLE IV. THE VILLAGE PRESIDENT*

Sec. 2-68. Election, term of office.

*Cross reference – Village President to be local liquor control commissioner, Sec. 3-2.

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The Village President shall be elected for a term of four (4) years. (Code 1958, Sec. 1.101)
State law reference Election of President, 65 ILCS 5/5-2-12

Sec. 2-69. Stipend.

From and after May 1, 1997, the stipend for the Village President shall be one thousand seventy five (\$1,075 dollars) for each three (3) month period and shall be paid once every three (3) months. (Ord. No. 96-45, Sec. 2, 10-17-96; Ord. No. 11-02, Sec. 2, 1-20-11)
State law reference--Compensation of President, 65 ILCS 5/3.1-50-5

Sec. 2-70. General duties as chief executive.

The Village President shall be the chief executive officer of the Village and shall perform all duties required of him by statute, this Code or other ordinance of the Village. He shall have supervision over all the appointed officers of the Village, and over all of the employees of the Village. (Code 1958, Sec. 1.102)
State law references--Powers and duties of Village President, 65 ILCS 5/3.1-15-10 et seq.

Sec. 2-71. To be President of Board of Trustees.

The Village President shall be the President of the Board of Trustees as provided by state law. (Code 1958, Sec. 1.101)
State law reference--Village President to act as President of Board of Trustees, 65 ILCS 5/3.1-40-30

Sec. 2-72. Bond; oath of office.

Before entering upon the duties of his office the Village President shall give a bond with sureties to be approved by the Board of Trustees conditioned upon the faithful performance of his duties, in the sum of three thousand (\$3,000.00) dollars. He shall take the oath of office as prescribed by statute. (Code 1958, Sec. 1.104) State law reference--Bond & oath of office of municipal officers, 65 ILCS 5/3.1-10-25, 65 ILCS 5/3.1-10-30

Sec. 2-73. President pro temp.

During the temporary absence or disability of the Village President, the Board of Trustees shall elect one of its number to act as President pro temp, who during the absence or disability of the President shall perform the duties pertaining to the office. (Code 1958, Sec. 1.105)
State law references--Authority of trustees to elect acting President, mayor pro temp, 65 ILCS 5/3.1-35-35

Sec. 2-74. Commencement of term of office.

The term of office of the person elected to be Village President shall commence on the first day of the month of May. (Ord. No. 81-08, Sec. 2, 3-18-81; Ord. No. 83-03, Sec. 2, 6-15-83)

Sec. 2-75. States of emergency

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- (a) The Village President shall have the authority to declare that a state of emergency exists in the Village whenever in the exercise of his reasonable discretion he determines that an imminent threat to the public health or public safety exists as a result of fire, flood, blizzard, drought, manmade or natural disaster, riot, lack of water or other commodity essential to the public health or safety, or any other condition which endangers the health or safety of the residents of the Village or endangers the safety of property within the Village.
- (b) During a state of emergency, the Village President shall have the authority to exercise, by executive order, such of the powers of the Village's Corporate Authorities as may be reasonably necessary to respond to the emergency. During the state of emergency, any such executive order shall have the force and effect of an ordinance. All executive orders issued during a state of emergency shall be in writing and shall be posted in the building designated as the Village Hall unless it is impractical to do so. If it is impracticable to post an executive order in the Village Hall, then the executive order shall be posted in some other public place within the Village. In addition, all executive orders issued during a state of emergency shall, to the extent possible, be disseminated to local news media.
- (c) Any person who violates an executive order that has been issued during a state of emergency as provided in this section shall upon conviction be subject to a fine of not less than one hundred dollars (\$100) nor more than seven hundred fifty (\$750) dollars for each offense. Each separate four (4) hour period during which any violation of an executive order shall continue shall constitute a separate offense.
- (d) The Village President shall not exercise any extraordinary power and authority nor issue any executive orders pursuant to this section until after the Village President signs under oath a written declaration that a state of emergency exists. Such written declaration shall contain a statement finding that the standards set forth in paragraph (a) of this section have been met, shall describe the nature of the emergency and shall set forth facts which substantiate that the emergency exists. A statement declaring the existence of a state of emergency shall be filed with the Village Clerk as soon as practicable.
- (e) Any state of emergency declared as provided in this section shall expire either upon issuance of a written statement by the Village President that the state of emergency ceases to exist or upon the adjournment of the first regular meeting of the Corporate Authorities of the Village after the state of emergency is declared, whichever occurs first. (Ord. No. 88-10, Sec. 1, 6-8-88)

Secs. 2-76-2-83. Reserved.

ARTICLE V. THE VILLAGE ADMINISTRATOR

Sec. 2-84. Office created; appointment.

There is hereby created the office of Village Administrator. The Village Administrator shall be appointed by the Village President by and with the consent of the Board of Trustees.

Sec. 2-85. Compensation.

The Village Administrator shall receive such compensation as the Board of Trustees shall determine from time to time.

Sec. 2-86. To be chief administrative officer.

The Village Administrator shall be the chief administrative officer of the Village and shall report to and be subject to the direction of the Village President, and the Board of Trustees, as provided by law.

Sec. 2-87. General Duties.

The Village Administrator shall have the following duties:

- (a) To assist the Budget Officer in the preparation of the Village's annual budget.
- (b) To recommend the necessary appropriations and levies to the Board of Trustees.
- (c) To attend all meetings of the Village Board of Trustees, all meetings of Committees of the Village Board and such other meetings as may be directed by the Village President.
- (d) To be the purchasing agent for the Village, making all the purchases authorized by the Village President and the Board of Trustees, unless otherwise provided by the Board of Trustees. The Village Administrator shall recommend necessary purchases, secure bids and advertise for bids as directed by the Village President and Board of Trustees.
- (e) To keep the Village President and Board of Trustees advised of the financial condition and needs of the Village.
- (f) To recommend to the President and Board of Trustees the measures he deems necessary for the improvement of the administrative services of the Village.
- (g) To act as a personnel officer with respect to all Village employees and furnish the Village President and Board of Trustees, his recommendations concerning the appointment, removal and compensation of Village employees.
- (h) To coordinate the functions of the various departments, committees, officers and employees of the Village and to act through the Chief of Police, Superintendent of Streets & Parks, Superintendent of Water & Sewer, Superintendent of Building & Zoning, the Village Clerk,

except as may be provided by law, and such other department heads or appointed officers as have been or are hereafter created.

- (i) To perform such other duties as may be directed by the Village President, not inconsistent with the provisions of this Code, other ordinances of the Village or laws of the state.

Sec. 2-88. Removal from office.

The Village Administrator may be removed from office at any time by the Village President as provided by law. (Ord. No. 97-40, Sec. 1, 11-20-97)

Secs. 2-90--2-99. Reserved.

ARTICLE VI. THE VILLAGE CLERK *

Sec. 2-100. Appointment.

The Village Clerk shall be appointed by the Village President with the concurrence of the Village's Board of Trustees. Because the office of Village Clerk requires technical training and knowledge, a person appointed to the office of Village Clerk shall not be required to be a qualified elector of the Village of Fox River Grove and shall not be required to reside within the Village of Fox River Grove for one (1) year prior to appointment. (Ord. No. 84-16, Sec. 1, 12-17-84; Ord. No. 85-13, Sec. 1, 10-16-85)
State law reference-Appointment of Clerk, 65 ILCS 5/3.1-25-90

Sec. 2-101. Bond required.

Before entering upon the duties of the office, the Village Clerk shall execute a bond in such amount and with such sureties as may be required by the Village's Corporate Authorities conditioned upon the faithful performance of the duties of the office. (Ord. No 84-16, Sec. 1, 12-17, 84)
State law reference--Bond of municipal employees, 65 ILCS 5/3.1-10-30

Sec. 2-102. Compensation.

The Village Clerk shall receive the annual salary specified for the office of Village Clerk in the annual budget adopted by the Village's Corporate Authorities. The Village Clerk shall also receive such benefits as are determined by the Village's Corporate Authorities. (Ord. No. 84-16, Sec. 1, 12-17-84)

*

Editor's note - Section 1 of Ord. No. 84-16, adopted Dec. 17, 1984 amended Art. VI, relative to the City Clerk, in its entirety. Former Art. VI, Sec. 2-100--2-111, pertained to the same matter and derived from Ord. of March 13, 1961, Secs.1-10; Ord. No.76-18, Sec. 1, adopted Dec. 15, 1976; Ord. No. 79-10, Sec. 3, adopted April 14, 1979; and Ord. No. 81-10, Sec. 1, adopted April 15, 1981.

Cross Reference - Village Clerk to be secretary to Board of local improvements, Sec. 2-217.

Sec. 2-103. General duties.

In addition to the duties provided in this article, the Village Clerk shall perform such other duties and functions as may be required by this Code, other Ordinances of the Village, the Village Administrator, by any applicable law, including the Illinois Compiled Statutes, or by direction of the Village's Corporate Authorities. (Ord. No. 84-16, Sec. 1, 12-17-84)

State law reference--General duties of clerks, 65 ILCS 5/3.1-35-90

Sec. 2-104. Custody, use of seal, attestation of documents.

The Village Clerk shall be the custodian of the Village seal and shall affix its impression on documents whenever this is required. The Village Clerk shall attest documents whenever attestation is required or requested. (Ord. No. 84-16, Sec. 1, 12-17-84)

State law reference--For similar provisions, see 65 ILCS 5/3.1-35-90

Sec. 2-105. Duty to keep records.

The Village Clerk shall keep a record of ordinances and shall keep and maintain any other records which the clerk is required by law to keep. The Village Clerk shall also keep and maintain a record showing all of the officers and regular employees of the Village, and shall keep and maintain and cause to be displayed any descriptions of the Village's government that may be required by the Illinois Freedom of Information Act. The Village Clerk shall keep and maintain such other records as may be required by the Village Administrator or the Village's Corporate Authorities. (Ord. No. 84-16, Sec. 1, 12-17-84)

Sec. 2-106. Duty to sign and keep a record of warrants.

The Village Clerk shall, upon the allowance of any account or claim by the Village's Corporate Authorities, sign a warrant therefor upon the Village treasury payable to the order of the claimant, which warrant, when signed by the Village President and the Village Clerk, shall be paid by the Village Treasurer. The Village Clerk shall keep in a suitable book an accurate list of all warrants drawn on the treasury stating the date, number and amount thereof, and name of the person in whose favor drawn. (Ord. No. 84-16, Sec. 1, 12-17-84)

Sec. 2-107. Custody of documents.

The Village Clerk shall be the custodian of all documents belonging to the Village which are to be assigned to the custody of some other officer. (Ord. No. 84-16, Sec. 1, 12-17-84)

State law reference--For similar provisions, see 65 ILCS 5/3.1-35-90

Sec. 2-108. Duty to index documents and records.

The Village Clerk shall keep or cause to be kept and maintained a proper index to all documents and records kept by the Village Clerk so that ready access thereto and use thereof may be had. This index

shall be kept and maintained so that there is compliance with the Illinois Freedom of Information Act. (Ord. No. 84-16, Sec. 1, 12-17-84)

Sec. 2-109. The Deputy Clerk.

The Village Clerk is hereby authorized to appoint a Deputy Village Clerk who shall have the power and duties given to Deputy Village Clerks by law. The Deputy Clerk will perform such other duties as may be directed by the Village Administrator or the Village's Corporate Authorities. (Ord. No. 84-16, Sec. 1, 12-17-84)

Sec. 2-110. Duty to publish and post treasurer's annual statement of accounts.

The Village Clerk shall cause to be published in one or more newspapers which have a general circulation within the Village, all statements of the annual accounts as provided by the Village Treasurer acting in compliance with section 2-129 of this Code. One copy of such statement shall be posted within the office of the Village Clerk, in a conspicuous and accessible place. The statement so posted will remain posted for thirty (30) days. (Ord. No. 84-16, Sec. 1, 12-17-84)

Secs. 2-111-2-120. Reserved.

ARTICLE VII. THE VILLAGE TREASURER

Sec. 2-121. Office created; appointment.

There is hereby created the office of Village Treasurer, who shall be appointed by the Village President and Board of Trustees as provided by statute. (Code 1958, Sec. 4.201; Ord. No. 81-16, Sec. 1, 4-29-81)
State law reference--Authority to appoint treasurer, 65 ILCS 5/3.1-30-5

Sec. 2-122. Bond required.

The Village Treasurer shall give a bond, before entering upon the duties of his office, in a sum required by the Board of Trustees, but such amount shall not be less than that required by statute. This bond shall be continued upon the performance of his duties by the Treasurer, and shall be conditioned to indemnify the Village for any loss by reason of any neglect of duty or any act of the Treasurer. (Code 1958, Sec. 4.203)

State law reference--Bonds of officers, 65 ILCS 5/3.1-10-30

Sec. 2-123. General duties of Village Treasurer.

The Village Treasurer shall perform such duties as may be prescribed for him by statute, this Code or other ordinance of the Village. The Village Treasurer shall collect and receive all money paid to the Village in such depositories as may be selected from time to time as provided by law. The Village Treasurer shall maintain records of all money paid to the Village. The Village Treasurer shall pay out money only on vouchers or orders approved by the Corporate Authorities. Unless otherwise specifically

provided by ordinance, all checks shall be signed by the Village Treasurer, and one of the following persons: The Village President or chairman of the finance and administration committee. (Code 1958, Sec. 4.204; Ord. No 81-11, Sec. 1, 4-15-81; Ord. No. 83-01, Sec. 1, 5-18-83; Ord. No. 84-06, Sec. 1, 5-16-84, Ord. No. 2006-21, Sec. 2, 4-20-06)

State law reference--Duties of treasurer generally, 65 ILCS 5/3.1-35-40

Sec. 2-124. Commingling of funds.

The Village Treasurer shall keep Village money separate and distinct from his own money, and shall not make personal or private use of any Village money. (Code 1958, Sec. 4.205; Ord. No. 81-11, Sec. 2, 4-15-81)

State law references--Deposit of funds, personal use of funds, 65 ILCS 5/3.1-35-55

Sec. 2-125. Records required.

The Village Treasurer shall keep records showing all money received by him, showing the source from which it is received and the purpose for which it is paid, and he shall keep records at all times showing the financial status of the Village. (Code 1958, Sec. 4.206)

Sec. 2-126. Accounts required.

The Village Treasurer shall keep such books and accounts as are required by statute or ordinance, and he shall keep them in the manner required by the Village Board of Trustees. (Code 1958, Sec. 4.207)

State law reference--Duty to keep accounts, 65 ILCS 5/3.1-35-40

Sec. 2-127. Warrants; transfer of funds.

Money shall not be transferred by the Village Treasurer from one fund to another, after it has been received by him, nor appropriated to any other purpose than that for which it has been collected or paid, except as may be ordered by the Village President and Board of Trustees in manner and form prescribed by statute. (Code 1958, Sec. 4.209)

State law reference--Warrants; vouchers; register, 65 ILCS 5/3.1-35-40, 65 ILCS 5/3.1-35-45

Sec. 2-128. Special assessment funds.

All monies received on any special assessment shall be held by the Village Treasurer as a special fund to be applied only to the payment of the improvement, or bonds and vouchers issued therefor, together with interest thereon, for which the assessment was made, and said money shall be used for no other purpose, unless to reimburse the Village for money expended for such improvement. Payment on bonds or vouchers shall be made in accordance with the state law, and the Treasurer shall keep books and accounts in such a manner that proper prorations in payments of principal and interest can be made and ascertained. (Code 1958, Sec. 4.208)

State law reference--For similar provisions, see 65 ILCS 5/3.1-35-85

Sec. 2-129. Annual statement of account.

- (a) The Village Treasurer shall prepare and file with the Village Clerk, a statement of account of all monies received and expenditures incurred during the preceding fiscal year within six (6) months after the end of the fiscal year. The Treasurer shall show in such account:
 - (1) All monies received by the Village, indicating the total amounts, in the aggregate, received in each account of the Village, with a general statement concerning the source of such receipts, provided that, for the purposes of this subparagraph the term "account" shall not be construed to mean each individual taxpayer, house-holder, licensee, utility user, or such other persons whose payments to the Village are credited to a general account; and
 - (2) All monies paid out by the Village, giving the name of each person to whom paid, on what account paid, and the total amount, in the aggregate, paid to each person to each such account; and
 - (3) A statement showing the state of the Village treasury at the close of the fiscal year.
- (b) The preceding fiscal year for which such account must be prepared is the fiscal year of the Village which ends during the twelve (12) month period immediately preceding the first day of May of the year in which the report is filed.
- (c) The Village Treasurer shall provide the Village Clerk with sufficient copies of the accounts for posting, for viewing and for publication as required by Section 2-111 of this Code.

Secs. 2-130--2-138. Reserved.

ARTICLE VIII. THE VILLAGE COLLECTOR

Sec. 2-139 – Sec. 2-.153 (Repealed per Ord. No. 2006-21, 4-20-06)

ARTICLE IX. THE VILLAGE ATTORNEY

Sec. 2-154. Authority of Village to retain attorney.

The Village President, with the endorsement of the Board of Trustees, may retain an attorney to represent and advise the Village. (Code 1958, Sec. 4.101)

Sec. 2-155. Duty to render legal advice; when opinions are to be in writing.

The Village Attorney shall be the legal advisor of the Village, and shall render advice on all legal

questions affecting the Village, whenever requested to do so by any Village official. Upon request of the Village President or the Board of Trustees, he shall reduce any such opinion to writing. (Code 1958, Sec. 4.104)

Sec. 2-156. Duty to prosecute and defend suits.

The Village Attorney shall prosecute or defend any and all suits or actions to which the Village may be a party, or in which it may be interested, or which may be brought against, or by, any officer of the Village on behalf of the Village, or in the capacity of such person as an officer of the Village. (Code 1958, Sec. 4.102)

Sec. 2-157. Duty to see to enforcement of judgments and decrees.

It shall be the duty of the Village Attorney to see to the full enforcement of all judgments or decrees rendered or entered in favor of the Village, and of all similar interlocutory orders. (Code 1958, Sec. 4.103)

Sec. 2-158. Duty to see to completion of special assessment and condemnation proceedings.

It shall be the duty of the Village Attorney to see to the completion of all special assessment proceedings and condemnation proceedings. (Code 1958, Sec. 4.105)

Sec. 2-159. Duty to draft ordinances, contracts and other documents.

It shall be the duty of the Village Attorney to draft or supervise the phraseology of any contract, lease or other document or instrument, to which the Village may be a party; and upon request by the Village Board of Trustees, to draft ordinances covering any subjects within the power of the Village. (Code 1958, Sec. 4.106)

Sec. 2-160. Annual report recommending new ordinances.

The Village Attorney shall, at the first meeting of the Village Board of Trustees in October of each year, present a report recommending the adoption of new ordinances for the purposes of conforming Village ordinances to state law, updating technical codes adopted by the Village and any other purposes deemed necessary by the Village Attorney.

Secs. 2-161--2-170. Reserved.

ARTICLE X. THE SUPERINTENDENT OF STREETS AND PARKS

Sec. 2-171. Position created; appointment.

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There is hereby created the office of Superintendent of Streets and Parks, who shall be appointed by the Village President and Board of Trustees. (Ord. No. 88-24, Sec. 2, 6-15-88)

Sec. 2-172. Supervisory power over employees.

All officers or employees assigned to the Department of Streets and Parks shall perform their duties subject to the orders and under the supervision of the Superintendent of Streets and Parks. (Ord. No. 88-24, 6-15-88)

Sec. 2-173. Custodian of Village property.

The Superintendent of Streets and Parks shall be the custodian of all property of the Village which is not assigned to the care or custody of any other Village employee or officer. (Ord. No. 88-24, Sec. 4, 6-15-88)

Sec. 2-174. General powers and duties.

- (a) *Streets.* The Superintendent of Streets and Parks shall have charge of the construction and care of all public streets, alleys and driveways in the Village, and with keeping the same clean. He shall see to it that all gutters and drains therein function properly and that the same are kept free from defects.
- (b) *Lighting.* The Superintendent of Streets and Parks shall supervise the lighting of the public streets and alleys, and shall keep the lighting system in efficient operation and good repair.
- (c) *Parks.* The Superintendent of Streets and Parks shall have charge of the construction and care of all public parks in the Village and with keeping the same clean. He shall see to it that all facilities and equipment therein function properly and that the same are kept free from defects.
- (d) *Other Duties.* The Superintendent of Streets and Parks shall perform such other duties as may be assigned by the Village President or Board of Trustees. (Ord. No. 88-24, Sec. 5, 6-15-88)

Secs. 2-175--2-184. Reserved.

ARTICLE XI. PERSONNEL *

DIVISION 1. GENERALLY

Sec. 2-185. Personnel code adopted; incorporated into employment contract.

- (a) The personnel code, a copy of which is attached hereto, as Exhibit A, is hereby adopted as the

• Cross reference-Village Administrator to act as personnel officer, Sec. 2-88.
Cross reference – Personnel policies and procedures to be included in Administrative Code, Sec. 2-3(3).

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personnel code of the Village of Fox River Grove. Notwithstanding any provision to the contrary which might be contained in any Village ordinance or in the personnel code itself, the personnel code shall, insofar as it is applicable, govern and control the terms and conditions of employment of all Village employees and all appointed officers who are regularly scheduled to work more than twenty (20) hours per week for the Village.

- (b) The provisions of the personnel code shall be incorporated into the terms of the written or unwritten employment contract which exists between the Village and each employee and officer to whom the personnel code is applicable under the provisions of subsection (a) of this section. (Ord. No. 81-09, 1, 2, 4-15-81)

Editor's note Ord. No. 81-09, did not expressly amend this Code, hence inclusion of 1, 2, herein as Sec. 2-185 was at the discretion of the editors. Exhibit A is not set out herein, but is on file and available for inspection in the office of the Village Clerk and the office of the Village Administrator.

Secs. 2-186--2-194. Reserved.

DIVISION 2. RESERVED**

Secs. 2-195--2-199. Reserved.

**Editor's note – Ord. No. 75-01, Sec. 1, enacted Feb 12, 1975, repealed Div. 2, Secs. 2-195, relative to group insurance for Village employees. Said division was derived from Ord. of April 8, 1968.

DIVISION 3. RETIREMENT

Sec. 2-200. Participation in Illinois Municipal Retirement Fund.

- (a) The Village of Fox River Grove, McHenry and Lake Counties, Illinois, does hereby elect to participate in the Illinois Municipal Retirement Fund, effective January 1, 1975. (Ord. No. 94-10, Sec. 2, 3-17-94)
- (b) The Village Clerk is directed to promptly file a certified copy of this ordinance [Ordinance No. 74-6] with the Board of Trustees of the Illinois Municipal Retirement Fund. (Ord. No. 74-6, Sec. 1, 2, 8-14-74)

Editor's note-Section 2-200 is derived from Ord. No. 74-6, 1, 2, which ordinance was nonamendatory of this Code.

Sec. 2-201. Establishing a Police Pension

The Corporate Authorities of the Village of Fox River Grove do hereby establish a police pension fund as described in Article 3 of the Illinois Pension Code, (40 ILCS 5/3-101 et seq.) for the benefit of the Village of Fox River Grove's police officers and their surviving spouses, children and certain other dependents which is to be known as the Village of Fox River Grove Police Pension Fund. The Village of Fox River Grove Police Pension Fund is established effective as of December 8, 2002. Persons who on the effective date of this Ordinance are employees of the Village of Fox River Grove who have been appointed to the police force of the Village's Police Department and sworn and

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commissioned to perform police duties shall begin to make contributions to the Village of Fox River Grove Police Pension Fund as provided in Section 3-125.1 of the Illinois Pension Code (40 ILCS 5/3-125.1) based on salary earned on and after December 8, 2002 and shall be considered to have become participants in the Police Pension Fund as of December 8, 2002, provided that such police officers must make written application to become a participant in the Village of Fox River Grove Police Pension Fund no later than March 8, 2003.

The Village of Fox River Grove Police Pension Fund shall be administered and operated in accordance with the provisions of Article 3 of the Illinois Pension Code and any other applicable provisions of the Illinois Statutes.

A five member board to be known as the Board of Trustees of the Village of Fox River Grove Police Pension Fund shall be constituted as provided in Section 3-128 of the Illinois Pension Code to administer the Police Pension Fund of the Village of Fox River Grove Police Pension Fund. The terms of the two members of the Board of Trustees of the Village of Fox River Grove Police Pension Fund who are to be appointed by the Village President of the Village of Fox River Grove as provided in Section 3-128 of the Illinois Pension Code shall begin on May 13, 2003. The election for the members of the Board of Trustees of the Village of Fox River Grove Police Pension Fund shall be held on April 21, 2003 at the Fox River Grove Municipal Center, 305 Illinois Street, Fox River Grove, Illinois during the hours from 8:30 a.m. until 4:30 p.m. Persons desiring to have their name appear on the ballot for election to the Board of Trustees of the Village of Fox River Grove Police Pension Fund shall file a written request to appear on the ballot at the April 21, 2003 election, with the Village Clerk of the Village of Fox River Grove no later than 4:30 p.m. on April 17, 2003. The terms of those members of the Board of Trustees of Village of Fox River Grove Police Pension Fund who are elected at the election to be held on April 21, 2003 shall begin on May 13, 2003.

Until such time as the members of the Board of Trustees of the Village of Fox River Grove Police Pension Fund select members of the Board to serve as president, vice-president, secretary and assistant secretary of the Board as provided in Section 3-130 of the Illinois Pension Code, the Village President shall select the members of the Board of Trustees of the Village of Fox River Grove Police Pension Fund who shall serve as the president, vice-president, secretary and assistant secretary of the Board.

Until such time as the Board of Trustees of the Village of Fox River Grove Police Pension Fund directs otherwise, the Treasurer of the Village of Fox River Grove shall deposit any funds belonging to the Village of Fox River Grove Police Pension Fund in interest bearing savings accounts or certificates of deposits with terms not longer than ninety (90) days or shall invest such funds which have an equivalent level of security and liquidity as a certificate of deposit which has a term not longer than ninety (90) days.

It is the intention of the Corporate Authorities of the Village of Fox River Grove that the provisions of this Ordinance shall be interpreted in a manner that is consistent with Article 3 of the Illinois Pension Code and any other applicable Statute of the State of Illinois. In the event that there is a

conflict between the provisions of this Ordinance and the provisions of Article 3 of the Illinois Pension Code or any other applicable statute of the State of Illinois, the provisions of Article 3 or the applicable statute shall govern and control. (Ord. No. 2002-38, Sec. 1-6, 12-19-02)

Secs. 2-202--2-209. Reserved.

ARTICLE XII. BOARDS AND COMMISSIONS

DIVISION 1. IN GENERAL

Sec. 2-210. Power of Board of Trustees to establish commissions.

The Village Board of Trustees shall have the power to establish from time to time, by resolution, any commission it may deem necessary.

Secs. 2-211--2-215. Reserved.

DIVISION 2. BOARD OF LOCAL IMPROVEMENTS *

Sec. 2-216. Established; composition.

There is hereby established the Board of Local Improvements for the Village, which shall consist of the Village President and all the members of the Board of Trustees. (Code 1958, Sec. 7.601)

Sec. 2-217. Village Clerk to be secretary of board.

The Village Clerk shall be secretary of the Board of Local Improvements. (Code 1958, Sec. 7.602)

Sec. 2-218. General duties.

The Board of Local Improvements shall have the powers and perform the duties assigned to it by statute or ordinance. (Code 1958, Sec. 7.603)

Secs. 2-219--2-223. Reserved.

DIVISION 3. BOARD OF ZONING APPEALS *

Sec. 2-224. Created; composition; appointment; chairman.

* State law reference - Board of local improvements generally, 65 ILCS 5/9-2-7

* State law reference - Authority to provide for Board of Zoning Appeals, 65 ILCS 5/11-13-3; appeal procedure generally, 65 ILCS 5/11-13-12

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There is hereby created a Board of Zoning Appeals for zoning matters, which shall consist of seven (7) members to be appointed by the Village President with the advice and consent of the Village Board of Trustees. One (1) member of this Board shall be designated as chairman. (Code 1958, Sec. 7.501)

Sec. 2-225. Term of office of members.

Each member of the Board of Zoning Appeals shall serve for five (5) years and until their successors are appointed and qualified. Except, when a term expires after January 1, 2009, the person that is either appointed or reappointed to serve a new term shall serve for a period of four (4) years. (Code 1958, Sec. 7.502; Ord. 08-27, Sec. 2, 12-18-08)

Sec. 2-226. Stipend.

Each member of the Board of Zoning Appeals shall receive a stipend in the sum of twenty (\$20.00) dollars for attendance at each meeting of the Board of Zoning Appeals. (Ord. 91-32, Sec. 1, 10-16-91; Ord. No. 11-2, Sec. 3, 1-20-11)

Sec. 2-227. General duties.

The Board of Zoning Appeals shall pass upon all appeals from the Superintendent of Building & Zoning, on questions of zoning, building, housing, plumbing and electricity and shall have such other powers and duties as may be delegated to it by statute or ordinance. Provided that a concurring vote of four (4) members shall be necessary to reverse any decision of the Superintendent of Building & Zoning, as required by statute. The Board of Zoning Appeals shall meet at such times as it may determine or upon call of the chairman; and it shall keep records of its official actions. (Code 1958, Sec. 7.503)

Sec. 2-228. Fees for Zoning Board of Appeals hearings.

Any person requesting a variation from the requirements of the Zoning Ordinance of the Village of Fox River Grove, a special use, a text amendment or requesting a change in zoning classification for a lot or parcel on which a single family house is located or proposed to be constructed for which a public hearing is required to be conducted by the Zoning Board of Appeals shall, at the time the application for the variation, special use or rezoning is filed, pay a fee of three hundred (\$300.00) dollars, provided that no fee shall be required if the person is applying only for a variation to permit the construction of a deck or terrace in the rear yard of a lot which is subject to a conservation easement or conservancy area if the deck or terrace is proposed to be located less than five (5) feet from the conservation easement or conservancy area. Any person requesting a variation from the requirements of the Zoning Ordinance of the Village of Fox River Grove, a special use, a text amendment or requesting a change in zoning classification other than for a lot or parcel on which a single family house is located or proposed to be constructed for which a public hearing is required to be conducted by the Zoning Board of Appeals shall, at the time the application for the variation, special use, text amendment or rezoning is filed, pay a fee of five hundred (\$500.00) dollars. This fee provided for in this Section is intended to cover the costs incurred by the Village in conducting the hearing, including but not limited to: the stipend paid to the

Zoning Board of Appeals members, the Zoning Board of Appeals Secretary, the Village Attorney and any other Village consultants in attendance, the cost of the hearing and the cost of giving public notice of the hearing. No hearing before the Zoning Board of Appeals shall be scheduled unless and until the required fee is paid in full. If an applicant requests that a hearing be rescheduled after public notice of the hearing has been given, the applicant must pay an additional fee of one hundred fifty (\$150.00) dollars before the hearing is rescheduled. (Ord. No. 90-32, Sec.1, 10-17-90; Ord. No. 99-18, Sec. 1, 6-17-99; Ord. No. 2000-49, Sec. 1, 10-19-00; Ord. No. 2008-16, Sec. 1, 8-21-08; Ord. No. 2011-7, Sec. 2, 3-17-11)

Secs. 2-229--2-232. Reserved.

DIVISION 4. PLANNING & ECONOMIC DEVELOPMENT COMMISSION *

Sec. 2-233. Created.

There is hereby created a Planning & Economic Development Commission for the Village.

Sec. 2-234. Composition; appointments.

The Planning & Economic Development Commission shall consist of seven (7) members who shall reside within the planning jurisdiction of the Village. The members of the Planning & Economic Development Commission shall be appointed by the Village President, on the basis of their particular fitness for their duty on the Planning & Economic Development Commission and subject to the approval of the Village Board of Trustees.

In addition to the seven (7) regular members of the Planning & Economic Development Commission, the Village President may appoint, subject to the approval of the Village Board of Trustees, ex officio members to the Planning & Economic Development Commission. Ex officio members may participate in the discussions at the Planning & Economic Development Commission, but shall not vote on any questions and shall not be counted as part of any quorum of the Planning & Economic Development Commission. Such members shall serve at the will of the Village President, and shall receive no compensation from the Village for attending any regular or special meeting of the Planning & Economic Development Commission. (Ord. of 4-30-58, Sec. 1; Ord. of 2-24-62, Sec. 1; Ord. No. 744, Sec. 1, 6-29-74; Ord. No. 76-05, Sec. 1, 4-14-76; Ord. No. 82-11, Sec. 1, 7-21-82, Ord. No. 06-07, Sec. 1, 2-16-06)

Sec. 2-235. Village President to be ex officio member.

The President of the Village shall be an ex officio member of the Planning & Economic Development

* Cross reference- Subdivisions, Sec. 19-1 et seq.
State law reference - Plan Commission generally, 65 ILCS 5/11-12-4

Commission. (Ord. of 4-30-58, Sec. 3; Ord. of 2-24-62, Sec. 3)

Sec. 2-236. Terms of office.

The seven (7) currently serving members of the Planning & Economic Development Commission shall continue to serve until the expiration of their current terms. Thereafter, members shall serve for a staggered period of three (3) years each. (Ord. of 4-30-58, Sec. 2; Ord. of 2-24-62, Sec. 2; Ord. No. 76-05, Sec. 2,4-14-76; Ord. No. 82-11, Sec. 2, 7-21-82, Ord. No. 06-07, Sec. 1, 2-16-06)

Sec. 2-237. Filling vacancies.

Vacancies on the Planning & Economic Development Commission shall be filled by appointments by the Village President, subject to the approval of the Village Board. (Ord. of 4-30-58, Sec. 2; Ord. of 2-24-62, Sec. 2)

Sec. 2-238. Stipend.

Each member of the Planning & Economic Development Commission shall receive a stipend of twenty (\$20.00) dollars for attendance at each meeting of the Planning & Economic Development Commission. (Ord. No. 91-32, Sec. 2, 10-16-91; Ord. No. 06-07, Sec. 1, 2-16-06; Ord. No. 11-2, Sec. 4, 1-20-11)

Sec. 2-239. Organization; election of officers; adoption and alteration of rules and regulations.

Immediately following their appointment, the members of the Planning & Economic Development Commission shall meet, organize, elect such officers as it may deem necessary, and adopt and later change or alter rules and regulations of organization and procedure consistent with this Code, other ordinances of the Village and State law. (Ord. of 4-30-58, Sec. 3; Ord. of 2-24-62, Sec. 3)

Sec. 2-240. Records of proceedings.

The Planning & Economic Development Commission shall keep written records of its proceedings, which shall be open at all times to public inspection. (Ord. of 4-30-58, Sec. 3; Ord. of 2-24-62, Sec. 3)

Sec. 2-241. Annual report.

The Planning & Economic Development Commission shall file an annual report with the Village President and the Village Board of Trustees in February of each year, setting forth its transactions and recommendations. (Ord. of 4-30-58, Sec. 3; Ord. of 2-24-62, Sec. 3)

Sec. 2-242. Powers and duties of commission.

The Planning & Economic Development Commission shall have the following powers and duties:

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- (a) To prepare and recommend to the Village Board of Trustees a Comprehensive Plan for the present and future development or redevelopment of the Village and contiguous unincorporated territory not more than one and one-half (1-1/2) miles beyond the corporate limits of the Village and not included in any other municipality. The plan may be adopted in whole or in separate geographical or functional parts, each of which, when adopted shall be the official Comprehensive Plan, or part thereof, of the Village. The plan shall be advisory, except as to such part thereof as has been implemented by ordinances duly enacted by the Village Board of Trustees. All requirements for public hearing, filing of notice of adoption with the county recorder of deeds, and filing of said plan and ordinances with the Village Clerk shall be complied with as provided for by law.
- (b) To establish and maintain reasonable standards of design for subdivisions and for re-subdivisions of unimproved land and of areas subject to redevelopment in respect to public improvements as herein defined and shall establish reasonable requirements governing the location, width, course and surfacing of public streets and highways, alleys, ways for public service facilities, curbs, gutters, sidewalks, streetlights, parks, playgrounds, school grounds, size of lots to be used for residential purposes, storm water drainage, water supply and distribution, sanitary sewers, and sewage collection and treatment. The requirements specified herein shall become regulatory only when adopted by ordinance.
- (c) To designate land suitable for annexation to the municipality and the recommended zoning classification for such land upon annexation.
- (d) To recommend to the Village Board of Trustees from time to time, such changes in the Comprehensive Plan, or any part thereof, as may be deemed necessary.
- (e) To prepare and recommend to the Village Board of Trustees from time to time, plans and/or recommendations for specific improvements in pursuance of the official Comprehensive Plan.
- (f) To give aid to the officials of the Village charged with the direction of projects for improvements embraced within the official plan or parts thereof, to further the making of such improvements, and generally to promote the realization of the official Comprehensive Plan.
- (g) To perform any duty or function, not otherwise enumerated, which is conferred on municipal plan commissions by statute or other applicable law.
- (h) To cooperate with municipal or regional planning commissions and other agencies or groups to further the local planning program and to assure harmonious and integrated planning for the area.
- (i) To provide assistance and advice when requested to do so to those Village officials and employees whose duties include attracting of new businesses to the Village, promoting existing businesses and other commercial activities located in the Village and otherwise promoting economic development within the Village of Fox River Grove.

- (j) Where a commercial, residential or mixed use development is being proposed for an area of the Village for which the Village has adopted design guidelines, to review the proposed development and make a recommendation to the President and Board of Trustees as to whether the proposed development is consistent with the adopted design guidelines.
- (k) To work with existing local and regional organizations, such as the local Chamber of Commerce, to promote economic activity and development in the Village.
- (l) To exercise such other powers germane to the powers granted under authority of State law, as may be conferred by the Village Board of Trustees. (Ord. of 4-30-58, Sec. 4; Ord. of 2-24-62, Sec. 4, Ord. No. 05-19, Sec. 2, 7-21-05)

Sec. 2-243. Commission to be advised on improvements.

The Village Clerk shall furnish the Planning & Economic Development Commission for its consideration a copy of all ordinances, plans and data relative to public improvements of any nature. The Planning & Economic Development Commission may report in relation thereto if it deems a report necessary or advisable for the consideration of the Village Board of Trustees. (Ord. of 4-30-58, Sec. 6; Ord. of 2-24-62, Sec. 6)

Sec. 2-244. Paid employees of commission.

The Planning & Economic Development Commission may at the discretion of the Village Board of Trustees employ a paid secretary, or staff, or both, whose salaries, wages and other necessary expenses shall be provided for by adequate appropriation made by the Village Board of Trustees from the public funds. (Ord. of 4-30-58, Sec. 7; Ord. of 2-24-62, Sec. 7)

Sec. 2-245. Technical advice and services.

If the Planning & Economic Development Commission shall deem it advisable to secure technical advice or services, it may be done upon authority from the Village Board of Trustees and appropriations by the Village Board of Trustees therefor. (Ord. of 2-24-62, Sec. 7)

Sec. 2-246. Official map authorized; contents.

At any time or times, before or after the formal adoption of the official Comprehensive Plan by the Corporate Authorities, an official map may be designated by ordinance, which map may consist of the whole area included within the official Comprehensive Plan or one or more separate geographical or functional parts, and may include all or any part of the contiguous unincorporated area within one and one-half (1-1/2) miles from the corporate limits of the Village. All requirements for public hearing, filing of notice of adoption with the county recorder of deeds, and filing of said plan and ordinances,

including the official map, with the Village Clerk shall be complied with as provided for by law. (Ord. of 4-30-58, Sec. 5; Ord. of 2-24-62, Sec. 5)

Sec. 2-247. Subdivisions to comply with ordinances, map.

No map or plat of any subdivision or re-subdivision presented for record, affecting land within the corporate limits of the Village, or within contiguous territory which is not more than one and one-half (1-1/2) miles beyond the corporate limits, shall be entitled to record or shall be valid unless the subdivision shown thereon provides for standards of design, and standards governing streets, alleys, public ways, ways for public service facilities, streetlights, public grounds, size of lots to be used for residential purposes, storm and flood water runoff channels and basins, water supply and distribution, sanitary sewers, and sewage collection and treatment in conformity with the applicable requirements of the ordinances including the official map. (Ord. of 4-30-58, Sec. 5; Ord. of 2-24-62, Sec. 5)

Secs. 2-248, 2-249. Reserved.

DIVISION 5. PARKS COMMISSION

Sec. 2-250. Parks Commission established.

A Village commission to be known as the Parks Commission is hereby created.

Sec. 2-251. Membership of Parks Commission; Chairperson, Vice-Chairperson and Secretary.

The Parks Commission shall have seven (7) members who shall be appointed by the Village President with the advice and consent of the Village's Board of Trustees. The members of the Parks Commission shall be residents of the Village. In making appointments to the Parks Commission, the Village President shall endeavor to appoint persons who have a background, have had experience or have shown an interest in either outdoor recreational activities, environmental and ecological matters, and/or land or nature conservation. The Village President with the advice and consent of the Village's Board of Trustees shall appoint one (1) of the members of the Parks Commission to serve as Chairperson of the Commission and shall appoint one (1) of the members of the Parks Commission to serve as Vice-Chairperson. The persons appointed as Chairperson and Vice-Chairperson shall serve in those capacities until they cease to be a member of the Parks Commission or until their successor as Chairperson or Vice-Chairperson has been appointed and has qualified, whichever is the first to occur. The members of the Parks Commission shall designate one (1) of their members to serve as the secretary of the Commission.

Sec. 2-252. Term of office of members of the Parks Commission.

The term of office of members of the Parks Commission shall be four (4) years, and until their successors are appointed and qualified. Except, when a term expires after January 1, 2009, the person that is either appointed or reappointed to serve a new term shall serve for a period of three (3) years. (Ord. 08-28, Sec. 1, 12-18-08)

Sec. 2-253. Stipend.

Members of the Parks Commission shall receive a stipend of twenty (\$20.00) dollars for each Commission meeting they attend. (Ord. No. 2006-06, Sec. 1, 2-16-2006; Ord. No. 11-2, Sec. 3, 1-20-11)

Sec. 2-254. Vacancies and resignation.

Vacancies on the Parks Commission shall be filled by appointment by the Village President subject to the advice and consent of the Village's Board of Trustees. A member of the Parks Commission shall be deemed to have resigned if the member fails to attend three (3) consecutive meetings of the Commission unless the member's absence from one (1) or more of the meetings has been excused by the Commission's Chairperson.

Sec. 2-255. Meetings and records.

The Parks Commission shall meet the months of January, February, March, April, May, June, September, October, November and December on the first Wednesday at 7:00 p.m. Each month's required meeting day may be changed by a majority of the Commission in the event of a holiday, lack of quorum or similar circumstance. Meetings will not be held the months of July or August unless at the discretion of the Commission's Chairperson. (Ord. 08-28, Sec. 2, 12-18-08)

Sec. 2-256. Powers and duties of Parks Commission.

The Parks Commission shall have the following powers and duties:

- (a) To undertake activities intended to promote the use of the Village's parks as directed and authorized by the Village's Board of Trustees.
- (b) To make recommendations and otherwise provide advice to the Village's Board of Trustees regarding the adoption and revision of policies and plans relating to the use and development of the Village's parks.
- (c) To make recommendations and otherwise provide advice to the Village President and to the Village's administrative staff regarding the implementation of policies and plans relating to the use and development of the Village's parks.
- (d) To review budget proposals relating to parks and other recreation areas in the Village as developed by the Village's administrative staff and to comment on such proposals to the Village's Board of Trustees.
- (e) To review proposals developed by the Village's administrative staff for funding grants relating to

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the Village's parks and to make comments regarding such proposals to the Village's Board of Trustees.

- (f) Subject to the authorization of the Village's Board of Trustees and the direction of the Village President and Village Administrator, to undertake fund raising activities for the purpose of raising funds that are intended to be used to pay for improvements to the Village's parks or the acquisition of additional park land in the Village.
- (g) To annually conduct a meeting with each club, service organization, community group, association, unit of local government or other organization which provides recreational activities in the Village's parks, provides support for active and passive recreational activities in the Village's parks or which provides land that is used for public recreational activities in the Village for the purpose of facilitating communication regarding planned recreational activities in order to enhance coordination relating to the scheduling of events and to avoid duplication of efforts and conflicts with regard to recreational activities. The purpose of such meeting shall also be to enhance the recreational activities provided in the Village parks and to develop recommendations to be made to the Village's Board of Trustees as to how to increase the use of the Village's parks for both active and passive public recreational activities.
- (h) To conduct an annual meeting with each of those service organizations and other entities which have Village Parks named after them for the purpose of discussing and making recommendations relating to improvements to those parks and developing funding sources for the recommended improvements.
- (i) To provide assistance and advice when requested to do so to those Village officials and employees whose duties include management or maintenance of the Village's parks.
- (j) To work with existing local and regional organizations to promote the use and development of park land and public conservation areas in the Village.
- (k) To perform such other duties and to undertake such other activities germane to the use and development of the Village's parks as may be directed or suggested by the Village's Board of Trustees.

Sec. 2-257. Materials and services; requests for funds.

If the Parks Commission deems it necessary or advisable to purchase materials or obtain services, it may do so upon authorization from the Village's Corporate Authorities and appropriations by the Village Corporate Authorities therefore. Any requests which the Parks Commission may make to the Village's Corporate Authorities to authorize the expenditure of funds shall be made in writing.

Sec. 2-258. Deposits of receipts and accounting of funds.

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Any funds that may be collected by or on behalf of the Parks Commission shall be deposited with the Village Treasurer no later than the end of the next business day after the date on which the funds are received by or on behalf of the Commission. The Parks Commission shall account for all funds and other things of value which are received by or on behalf of the Commission in a manner specified by the Village's Finance Director. The Parks Commission shall promptly provide the Village President, the Board of Trustees and the Village's Finance Director with such reports relating to the funds and other items of value that have been received of, collected by or on behalf of the Parks Commission as may be requested. (Ord. No. 05-29, Sec. 1, 10-20-05)

Division 5 "Economic Development Commission" of Article XII "Boards and Commissions" of Chapter 2 "Administration" of the Code of Ordinances of the Village of Fox River Grove shall be and hereby is repealed in its entirety Sections 2-150-258. (Ord. No. 85-04, Sec. 1, 5-15-85; Ord. No. 05-19, Sec. 1, 7-21-05)

Secs. 2-259--2-261 Reserved.

Editor's Note: Repealed by Ord. 94-37.

DIVISION 6. SPECIAL EVENTS COMMISSION *

Sec. 2-261. Created.

There is hereby created a Special Events Commission for the Village.

Sec. 2-262. Composition.

The Special Events Commission shall consist of seven (7) members who will either be residents of the Village or an owner, officer or employee of a business, industry or community organization located within the Village.

Sec. 2-263. Appointment of members.

Members of the Special Events Commission shall be appointed by the Village President, subject to the approval of the Village's Board of Trustees.

Sec. 2-264. Terms of office.

The members of the Special Events Commission shall serve a term of one (1) year. The terms of office of each member of the Special Events Commission shall begin on May 1 and end the following April 30, provided that a member of the Special Events Commission shall continue to serve on the Commission until the member's successor is appointed and qualified. (Ord. No. 97-12, Sec. 1, 5-15-97)

* Ord. No. 94-37, 12-15-94

Sec. 2-265. Organization and meetings.

The Village President shall designate one of the members of the Special Events Commission to be the Chairman of the Commission. The members of the Special Events Commission shall designate one of their members to serve as the secretary of the Commission. Meetings of the Special Events Commission shall be held at the time and place specified in notices to be issued at the direction of the Chairman. Notice of the meetings of the Special Events Commission shall be given in accordance with the Illinois Open Meetings Act. The meetings of the Special Events Commission shall be open to the public in accordance with the requirements of the Illinois Open Meetings Act.

Sec. 2-266. Vacancies.

Vacancies on the Special Events Commission shall be filled by appointment by the Village President subject to the approval of the Village's Board of Trustees. A member of the Special Events Commission shall be deemed to have resigned if the member fails to attend three (3) consecutive meetings of the Commission unless the member's absence from one or more of the meetings has been excused by the Commission's Chairman.

Sec. 2-267. Minutes.

The Special Events Commission shall keep minutes of its meetings. Copies of the minutes of meetings of the Special Events Commission shall be kept on file in the office of the Village Clerk. Copies of the minutes of the meetings shall also be provided to the Village's President and Trustees.

Sec. 2-268. Duties of the commission.

The Special Events Commission shall have the following duties:

- (1) To sponsor, administer, coordinate, and promote public special events in the Village including but not limited to parades, commemorative celebrations, picnics, fireworks displays, carnivals and athletic exhibitions.
- (2) To initiate and administer programs designed to raise funds and provide other forms of support for public special events that occur within the Village.
- (3) To make written recommendations to the Village's Corporate Authorities regarding the manner in which funds should be expended that have been raised or are otherwise available to support public special events within the Village.
- (4) To provide marketing and publicity for public special events within the Village.
- (5) To prepare an annual budget for each Village fiscal year which will set forth the amount and source of any revenues anticipated to be received by the Special Events Commission and the purpose and amount of any expenditures which it is anticipated will be made by or on behalf of

the Special Events Commission during the fiscal year. The budget for each fiscal year shall be prepared and submitted to the Village's Corporate Authorities not less than sixty (60) days prior to the end of the fiscal year.

- (6) In performing its duties, the Special Events Commission shall not infringe upon or interfere with the special event activities sponsored by other groups and organizations. The Special Events Commission may cooperate with other organizations and groups in the sponsorship and support of public events in the Village. (Ord. No. 97-12, Sec. 1, 5-15-97)

Sec. 2-269. Materials and services; requests for funds and labor.

If the Special Events Commission deems it necessary or advisable to purchase materials or obtain services, it may do so upon authorization from the Village's Corporate Authorities and appropriations by the Village's Corporate Authorities therefore. Any requests which the Special Events Commission may make to the Village's Corporate Authorities for the Village to authorize the expenditure of funds to purchase materials or obtain services and any requests which the Special Events Commission may make for the Village to furnish labor in connection with a public special event shall be made in writing.

Sec. 2-270. Deposits of Receipts and Accounting of Funds

All funds collected by or on behalf of the Special Events Commission shall be deposited with the Village Treasurer no later than the end of the next business day after the date on which the funds are received by or on behalf of the Commission. The Special Events Commission shall account for all funds and other things of value which are received by or on behalf of the Commission in a manner specified by the Village's Finance Director. The Special Events Commission shall promptly provide the Village President, the Board of Trustees and the Village's Finance Director with such reports relating to the funds and other items of value that have been received or collected by or on behalf of the Special Events Commission and relating to the financial operations of the Special Events Commission as may be requested. (Ord. No. 97-12, Sec. 1, 5-15-97)

ARTICLE XIII. BUDGET*

Sec. 2-271. Budget Officer.

There is hereby created the office of Budget Officer. The Budget Officer shall be appointed by the Village President by and with the consent of the Board of Trustees. The Budget Officer shall serve at the pleasure of the Village President.

- (a) Bond Required. The Budget Officer shall take an oath and execute a bond in such amount and with such sureties as may be required by the Village's Corporate Authorities conditioned upon

* Ordinance 96-39; state law reference, 65 ILCS 5/8-2-9.1

the faithful performance of the duties of the office.

- (b) Compensation. The Budget Officer shall receive such compensation as the Board of Trustees shall fix from time to time by ordinance. The Budget Officer may hold another municipal office, either elected or appointed, and may receive compensation for both offices.

Sec. 2-272. Powers and duties of the Budget Officer.

The Budget Officer shall have the following powers and duties:

- (a) Permit and encourage and establish the use of efficient planning, budgeting, auditing, reporting, accounting, and other fiscal management procedures in all Village departments, commissions, and boards.
- (b) Compile an annual budget in accordance with Section 5/8-2-9.3 of the Illinois Municipal Code and as set forth below in Section 2-272 of this Code.
- (c) Examine all books and records of all Village departments, commissions, and boards which relate to monies received by the Village, Village departments, commissions, and boards, and paid out by the Village, Village departments, commissions, and boards, debts and accounts receivable, amounts owed by or to the Village, Village departments, commissions, and boards.
- (d) Obtain such additional information from the Village, Village departments, commissions, and boards as may be useful for purposes of compiling a Village budget. This information is to be furnished by the Village, Village departments, commissions, and boards in a form as required by the Budget Officer. Any department, commission or board which refuses to make such information as requested available to the Budget Officer shall not be permitted to make expenditures under any subsequent budget for the Village until such time as the department, commission or board complies in full with the Budget Officer's request.
- (e) Establish and maintain such procedures as shall insure that no expenditures are made by the Village, Village departments, commissions, or boards except as authorized by the budget.

Sec. 2-273. Compilation and contents of budget.

The annual budget shall contain the following:

- (a) Estimates of revenues available to the Village for the fiscal year for which the budget is prepared;
- (b) Recommended expenditures for the Village and all of the Village's departments, commissions, and boards.
- (c) Revenue estimates and expenditure recommendations shall be presented in a manner which is in

conformity with good fiscal management. A chart of accounts recommended by the National Committee on Governmental Accounting, the Illinois Auditor of Public Accounts, the Division of Local Government Affairs and Property Taxes of the Illinois Department of Revenue, or successor agencies, shall be utilized in compiling the annual budget. The annual budget as adopted by the Corporate Authorities of the Village shall be balanced.

- (d) Actual or estimated revenues and expenditures for the two (2) years immediately preceding the fiscal year for which the budget is prepared. The fiscal data for the two (2) preceding years shall be itemized in a manner which is in conformity with the chart of accounts utilized in Section 2-272(c).
- (e) The budget shall show the specific fund from which each anticipated expenditure shall be made.
- (f) The budget shall show goals, objectives and performance measurements of each department.

Sec. 2-274. Capital Improvement, Repair or Replacement Fund.

The annual budget may provide for a separate fund to be created for the purpose of specific capital improvements, repairs and/or replacements of specific types of Village equipment or other tangible property, both real and personal. Such fund shall be designated as the "Capital Improvement, Repair or Replacement Fund". The amount set aside in this Fund in any given fiscal year shall not exceed three (3%) percent of the equalized assessed value of real estate subject to taxation by the Village. Expenditures from the Capital Improvement Fund must be budgeted in the fiscal year in which the capital improvement, repair or replacement will occur. If any funds or surplus monies remain in the Capital Improvement Fund upon the completion or abandonment of any designated improvement, repair or replacement, then such funds shall be transferred into the general corporate fund of the Village on the first day of the fiscal year following the completion, abandonment or discovery of surplus fund.

Sec. 2-275. Funds for contingency purposes.

Money may be set aside in the annual budget for contingency purposes. The amount set aside shall not exceed ten (10%) percent of the total budget, less the amount set aside for contingency purposes. Money that is allocated for contingency purposes in any given fiscal year may be expended on unanticipated expenditures which arise during that fiscal year upon approval by a majority vote of the Corporate Authorities.

Sec. 2-276. Revision of annual budget.

The annual budget may be revised as follows:

- (a) Funds may be transferred between budget line items upon approval by a two-thirds (2/3) vote of the Corporate Authorities.

- (b) The Corporate Authorities, by a two-thirds (2/3) vote, may create new classifications of expenditures, and delete, change or create sub-classes within expenditure classifications.
- (c) Department heads, commissions and boards may delete, add to, change or create sub-classes within the classifications budgeted to the department, commission or board. Any such revision made by department heads, commissions, or boards must have prior approval by the Budget Officer.
- (d) Revisions cannot be made to the annual budget which increase the Village's overall expenditures unless there is an increase in revenue sufficient to cover proposed expenditure increase.

Sec. 2-277. Public inspection, notice, hearing.

The proposed annual budget shall be made available for public inspection at least ten (10) days prior to its passage. A public hearing shall be held on the proposed annual budget not less than one (1) week after its publication and prior to final action on the budget. Notice of the hearing shall be given by publication in a newspaper having general circulation in the Village at least one (1) week prior to the date of the hearing. After the hearing(s) on the proposed annual budget, the proposed annual budget may be further revised and passed without any further inspection, notice or hearing.

Sec. 2-278. Passage of annual budget.

The annual budget shall be adopted by a majority vote of the Village's Corporate Authorities prior to the beginning of the fiscal year to which the budget applies.

**ARTICLE XIV. "PROHIBITED POLITICAL ACTIVITIES
AND BANNED GIFTS"**

Sec. 2-285. Definitions

For purposes of this Article, the following terms shall be given these definitions:

- (a) "Campaign for elective office" means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, State, or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.
- (b) "Candidate" means a person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at a regular election, as defined in Section 1-3 of the Election Code (10 ILCS 5/1-3).

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- (c) “Collective bargaining” has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act (5 ILCS 315/3).
- (d) “Compensated time” means, with respect to an employee, any time worked by or credited to the employee that counts toward any minimum work time requirement imposed as a condition of his or her employment, but for purposes of this Article, does not include any designated holidays, vacation periods, personal time, compensatory time off or any period when the employee is on a leave of absence. With respect to officers or employees whose hours are not fixed, “compensated time” includes any period of time when the officer is on premises under the control of the employer and any other time when the officer or employee is executing his or her official duties, regardless of location.
- (e) “Compensatory time off” means authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of his or her employment.
- (f) “Contribution” has the same meaning as that term is defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4).
- (g) “Employee” means a person employed by the Village of Fox River Grove, whether on a full-time or part-time basis or pursuant to a contract, whose duties are subject to the direction and control of the Village with regard to the material details of how the work is to be performed, but does not include an independent contractor.
- (h) “Employer” means the Village of Fox River Grove.
- (i) “Gift” means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.
- (j) “Leave of absence” means any period during which an employee does not receive (i) compensation for employment, (ii) service credit towards pension benefits, and (iii) health insurance benefits paid for by the Village of Fox River Grove.
- (k) “Officer” means a person who holds, by election or appointment, an office with respect to the Village of Fox River Grove that is created by statute or ordinance, regardless of whether the officer is compensated for service in his or her official capacity.
- (l) “Political activity” means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person’s official duties.

- (m) “Political organization” means a party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code (10 ILCS 5/9-3), but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

- (n) “Prohibited political activity” means
 - (1) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.
 - (2) Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.
 - (3) Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.
 - (4) Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
 - (5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
 - (6) Assisting at the polls on Election Day on behalf of any political organization or candidate for elective office or for or against any referendum question.
 - (7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.
 - (8) Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.
 - (9) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.
 - (10) Preparing or reviewing responses to candidate questionnaires.
 - (11) Distributing, preparing for distribution, or mailing campaign literature, campaign signs,

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or other campaign material on behalf of any candidate for elective office or for or against any referendum questions.

- (12) Campaigning for any elective office or for or against any referendum question.
 - (13) Managing or working on a campaign for elective office or for or against any referendum question.
 - (14) Serving as a delegate, alternate, or proxy to a political party convention.
 - (15) Participating in any recount or challenge to the outcome of any election.
- (o) “Prohibited source” means any person or entity who:
- (1) is seeking official action (i) by an officer or (ii) by an employee, or by the officer or another employee directing that employee;
 - (2) does business or seeks to do business (i) with the officer or (ii) with an employee, or with the officer or another employee directing that employee;
 - (3) conducts activities regulated (i) by the officer or (ii) by an employee, or by the officer or another employee directing that employee; or
 - (4) has interests that may be substantially affected by the performance or non-performance of the official duties of the officer or employee.

Sec. 2-286 Prohibited Political Activities

- (a) No employee or officer holding an appointive office shall intentionally perform any prohibited political activity during any compensated time, as defined herein. No officer or employee shall intentionally use any property or resources of the Village of Fox River Grove in connection with any prohibited political activity.
- (b) At no time shall any officer or employee intentionally require any other officer or employee to perform any prohibited political activity (i) as part of that officer or employee’s duties, (ii) as a condition of employment, or (iii) during any compensated time off (such as holidays, vacation or personal time off).
- (c) No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any officer or employee be awarded additional compensation or any benefit in consideration for his or her participation in any prohibited political activity.

- (d) No officer or employee shall be awarded any additional compensation or employee benefit, in the form of a salary adjustment, bonus, compensatory time off, continued employment, or otherwise, in consideration for the employee's participation in any prohibited political activity.
- (e) Nothing in this Section prohibits activities that are permissible for an officer or employee to engage in as part of his or her official duties, or activities that are undertaken by an officer or employee on a voluntary basis which are not prohibited by this Article.
- (f) No person either (i) in a position that is subject to recognized merit principles of public employment or (ii) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs, shall be denied or deprived of employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a political organization or club.

Sec. 2-287 Gift Ban

Except as permitted by this Article, no officer or employee, and no spouse of or immediate family member living with any officer or employee (collectively referred to herein as "recipients"), shall intentionally solicit or accept any gift from any prohibited source, as defined herein, or which is otherwise prohibited by law or ordinance. No prohibited source shall intentionally offer or make a gift that violates this Section.

Sec. 2-288 Exceptions to Gift Ban.

Section 2-287 is not applicable to the following:

- (1) Opportunities, benefits and services that are available on the same conditions as for the general public.
- (2) Anything for which the officer or employee, or his or her spouse or immediate family member, pays the fair market value.
- (3) Any (i) contribution that is lawfully made under the Election Code or (ii) activities associated with a fundraising event in support of a political organization or candidate.
- (4) Educational materials and missions.
- (5) Travel expenses for a meeting to discuss Village business.
- (6) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew,

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niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather or grandmother of the individual's spouse and the individual's fiancé or fiancée.

- (7) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; (ii) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iii) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.
- (8) Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared or (ii) catered. For the purposes of this Section, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.
- (9) Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.
- (10) Intra-governmental and inter-governmental gifts. For the purpose of this Act, "intra-governmental gift" means any gift given to an officer or employee from another officer or employee, and the "inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.
- (11) Bequests, inheritances, and other transfers at death.
- (12) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

Each of the exceptions listed in this Section is mutually exclusive and independent of every other.

Sec. 2-289. Disposition of gifts.

An officer or employee, his or her spouse or an immediate family member living with the officer or employee, does not violate Section 2-287 if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

Sec. 2-290. Penalties.

- (a) A person who intentionally violates any provision of Section 2-286 may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than three hundred sixty-four (364) days, and may be fined in an amount not to exceed two thousand five hundred (\$2,500) dollars.
- (b) A person who intentionally violates any provision of Section 2-287 is subject to a fine in an amount of not less than one thousand one (\$1,001) dollars and not more than five thousand (\$5,000) dollars.
- (c) Any person who intentionally makes a false report alleging a violation of any provision of this Article to the Police Department of the Village, the State's Attorney or any other law enforcement official may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than three hundred sixty-four (364) days, and may be fined in an amount not to exceed two thousand five hundred (\$2,500) dollars.
- (d) A violation of Section 2-286 shall be prosecuted as a criminal offense by an attorney for the Village of Fox River Grove by filing in the circuit court an information, or sworn complaint, charging such offense. The prosecution shall be under and conform to the rules of criminal procedure. Conviction of a violation of Section 2-286 shall require the establishment of the guilt of the defendant beyond a reasonable doubt. A violation of Section 2-287 may be prosecuted as a quasi-criminal offense by an attorney for the Village of Fox River Grove.
- (e) In addition to any other penalty that may be applicable, whether criminal or civil, an officer or employee who intentionally violates any provision of Section 2-286 or Section 2-287 is subject to discipline or discharge. (Ord. No. 2004-15, Sec. 1, 4-15-04)

ARTICLE XV. ADMINISTRATIVE ADJUDICATIONS**DIVISION 1. GENERAL PROVISIONS****Sec. 2-300. Applicability.**

This Division shall be applicable to Divisions 1 through 4 of this Article. The administrative hearing procedures set forth in this Article are not exclusive. This Article does not preclude the Village of Fox River Grove from using other methods to enforce any provisions of its Code. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-301 Hearing Officer.

- (a) In Divisions 1 through 4 of this Article “Hearing Officer” shall mean a municipal employee or an officer or agent of a municipality, other than a building inspector or law enforcement officer, whose duty it is to:
 - (1) preside at administrative hearings required under Divisions 1 through 4 of this Article;
 - (2) hear testimony and accept evidence from relevant parties at administrative hearings;
 - (3) preserve and authenticate the transcript and record of the hearings and all exhibits and evidence introduced at the hearing;
 - (4) issue and sign a written finding, decision and order stating whether a violation exists.

- (b) *Hearing Officer Qualifications.* A Hearing Officer must be an attorney licensed to practice law in the State of Illinois for a period of at least three (3) years. Prior to conducting administrative adjudication proceedings, administrative hearing officers shall have successfully completed a formal training program which includes the following:
 - (1) instruction on the rules of procedure of the administrative hearings which they will conduct;
 - (2) orientation to each subject area of the code violations that they will adjudicate;
 - (3) observation of administrative hearings; and
 - (4) participation in hypothetical cases, including ruling on evidence and issuing final orders.

Sec. 2-302. Code Hearing Department.

A Code Hearing Department shall be established in the municipal government of the Village. The function of the Code Hearing Department is to expedite the prosecution and correction of violations in the manner set forth in Divisions 1 through 4 of this Article. The Code Hearing Department shall consist of a Hearing Officer that shall be chosen by the Village, the Chief of Police, the Village Administrator and any such other personnel that shall be deemed necessary to process and operate the Administrative Adjudication System and conduct the administrative hearings as set forth in

Divisions 1 through 4 of this Article. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-302. Traffic Compliance Administrator.

The Chief of Police, or any other police officer designated by the Chief of Police, shall serve as the Traffic Compliance Administrator. The Traffic Compliance Administrator is authorized to adopt, distribute and process parking, and automated traffic law violation notices and other notices required by this Article, collect money paid as fines and penalties for violation of parking and automated traffic law violations, and operate an administrative adjudication system for parking and automated traffic law violations. The traffic compliance administrator also may make a certified report to the Secretary of State under Section 6-306.5 of the Vehicle Code (625 ILCS 5/6-306.5). (Ord. No. 08-25, Sec. 2, 11-20-08)

DIVISION 2. ADMINISTRATIVE ADJUDICATION OF CODE VIOLATIONS

Sec. 2-310. Definitions.

When used in this Division the following terms shall be defined as follows:

Code means any municipal ordinance except for: (i) any offense under the Illinois Vehicle Code (625 ILCS 5/1-100 *et. seq.*) or a similar offense that is a traffic regulation governing the movement of vehicles; (ii) any reportable offense under Section 6-204 of the Illinois Vehicle Code (625 ILCS 5/6-204); (iii) any violations adjudicated under Division 3 of this Article; or (iv) any violations adjudicated under Division 4 of this Article.

Building Inspector means the Village of Fox River Grove Building & Zoning Superintendent or any employee or agent of the Village whose duties include the inspection or examination of structures or property in a municipality to determine if zoning or other code violations exist;

Property Owner means the legal or beneficial owner of a structure. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-311. Instituting Code Hearing Proceedings.

(a) When a Building Inspector or other individual authorized to issue a Code violation finds a violation, he shall note the violation on a multiple copy violation notice and report form, indicating the name and address of the structure owner or other defendant, the type and nature of the violation, the date and time the violation was observed, the names of witnesses to the violation, and, if relevant, the address of the structure where the violation is observed. Nothing contained in this Division shall prevent a Building Inspector from giving an individual a period of time to correct a deficiency before a determination is made that a violation of a Code exists and a violation report needs to be made.

(b) The violation report form shall be forwarded to the Code Hearing Department where a Docket number shall be stamped on all copies of the report, and a hearing date noted in the blank spaces

provided for that purpose on the form. The hearing date shall not be less than thirty (30) nor more than forty (40) days after the violation is reported.

- (c) One (1) copy of the violation report form shall be maintained in the files of the Code Hearing Department which shall be maintained by the Village Clerk and shall be part of the record of hearing, one (1) copy of the report form shall be returned to the individual that issued the violation so that he/she may prepare evidence of the code violation for presentation at the hearing on the date indicated, and (1) one copy of the report form shall be served by first class mail on the defendant, along with a summons commanding the owner to appear at the hearing. If the name of the owner of the structure cannot be ascertained or if service on the owner of a structure cannot be made by mail, service may be made on the owner by posting or nailing a copy of the violation report form on the front door of the structure where the violation is found, not less than twenty (20) days before the hearing is scheduled. The violation report may also be personally served and the person serving the violation shall prepare a signed written record indicating the date, time and place of such personal service. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-312. Subpoenas; Defaults.

At any time prior to the hearing date, the Hearing Officer assigned to hear the case may, at the request of any party issue subpoenas directing witnesses to appear and give testimony at the hearing. If on the date set for hearing the defendant or his attorney fails to appear, the Hearing Officer may find them in default and shall proceed with the hearing and accept evidence relevant to the existence of a code violation. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-313. Continuances - Representation at Code Hearings.

No continuances shall be authorized by the Hearing Officer in proceedings under this Division except in cases where a continuance is absolutely necessary to protect the rights of the defendant. Lack of preparation shall not be grounds for a continuance.

The case for the municipality may be presented by the Building Inspector, by any other individual authorized to issue violations or by an attorney designated by the municipality. However, in no event shall the case for the municipality be presented by an employee of the Code Hearing Department. The case for the defendant may be presented by the defendant, his attorney, or any other agent or representative. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-314. Hearing; Evidence.

At the hearing, a Hearing Officer shall preside and shall hear testimony and accept any evidence relevant to the existence or non-existence of a code violation. The strict rules of evidence applicable to judicial proceedings shall not apply to hearings authorized by this Division. The hearing shall be recorded. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-315. Eviction - Rights of the Occupants.

No action for eviction, abatement of a nuisance, forcible entry and detainer or other similar proceeding shall be threatened or instituted against an occupant of a dwelling solely because such occupant agrees to testify or testifies at a code violation hearing. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-316. Defenses to Code Violations.

In cases where the violation relates to some condition of a structure, it shall be a defense to a code violation charged under this Division if the owner of the structure, his attorney, or any other agent or representative proves to the Hearing Officer's satisfaction that:

- (a) The code violation alleged in the notice does not in fact exist, or, at the time of the hearing, the violation has been remedied or removed;
- (b) The code violation has been caused by the current property occupants and that in spite of reasonable attempts by the owner to maintain the dwelling free of such violations, the current occupants continue to cause the violations;
- (c) An occupant or resident of the dwelling has refused entry to the owner or his agent to all or a part of the dwelling for the purpose of correcting the code violation.

In other cases, any defense relevant to the violation may be raised by the defendant. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-317. Findings, Decision, Order.

At the conclusion of the hearing, the Hearing Officer shall make a determination on the basis of the evidence presented at the hearing whether or not a code violation exists. The determination shall be in writing and shall be designated as findings, decision and order. The findings, decision and order shall include the Hearing Officer's findings of fact, a decision whether or not a code violation exists based upon the findings of fact, and an order which imposes a monetary sanction specified in the Village Code and/or orders the owner to correct the violation. Where a monetary sanction has been imposed, the findings, decision and order shall further provide that an additional late fee equal to twenty-five (25%) percent of the monetary fine shall also be imposed if the monetary sanction shall not be paid to the Village within fourteen (14) days after either: (1) the period for seeking Administrative Review pursuant to Section 2-318 has expired with no Administrative Review being instituted; or (2) the Administrative Review process has been completed and all appeals, or rights to appeal therefrom have expired with a finding in favor of the Village. In the event a violation is not proved, the order shall dismiss the case. The Hearing Officer may also impose a monetary sanction that in whole or part may be abated at a future hearing date upon compliance with the Village Code. A copy of the findings, decision, and order shall be served on the owner within five (5) days after they are issued. Service shall be in the same manner as the report form and summons are served pursuant to Section 2-311 of this Division. Payment of any

penalty or fine shall be to the Village. (Ord. No. 08-25, Sec. 2, 11-20-08; Ord. No. 09-04, Sec. 2, 1-15-09)

Sec. 2-318. Administrative Review; Late Fee.

The findings, decision and order of the Hearing Officer shall be subject to review in the Circuit Court pursuant to the provisions of the Administrative Review Law and the Illinois Code of Civil Procedure, and all amendments and modifications thereto. Where a monetary sanction has been imposed, an additional late fee equal to twenty-five (25%) percent of the monetary sanction shall also be imposed if the monetary sanction shall not be paid to the Village within fourteen (14) days after either: (1) the period for seeking Administrative Review has expired with no Administrative Review being instituted; or (2) the Administrative Review process has been completed and all appeals, or rights to appeal therefrom have expired with a finding in favor of the Village. (Ord. No. 08-25, Sec. 2, 11-20-08; Ord. No. 09-04, Sec. 3, 1-15-09)

Sec. 2-319. Judgment on Findings, Decision, Order.

- (a) Any fine, other sanction or costs imposed, or part of any fine, other sanction or costs imposed remaining unpaid after the exhaustion of, or the failure to exhaust, judicial review procedures under the Administrative Review Law shall be a debt due and owing the Village and, as such, may be collected in accordance with applicable law.
- (b) After expiration of the period within which judicial review under the Administrative Review Law may be sought for a final determination of the code violation, the Village may commence a proceeding in the Circuit Court for purposes of obtaining a judgment on the findings, decision and order. Nothing in this Section shall prevent the Village from consolidating multiple findings, decisions and orders against a person in such a proceeding. Upon commencement of the action, the Village shall file a certified copy of the findings, decision and order, which shall be accompanied by a certification that recites facts sufficient to show that the findings, decision and order was issued in accordance with this Division and the applicable Village ordinance. Service of the summons and a copy of the petition may be by any method provided by Section 2-203 of the Code of Civil Procedure or by certified mail, return receipt requested, provided that the total amount of fines, other sanctions and costs imposed by the findings, decision and order does not exceed two thousand five hundred (\$,2500) dollars. Any judgment entered in favor of the Village and against the property owner for the amount indicated in the findings, decision and order may be enforced in the same manner as other judgments for the recovery of money. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-320. Sanctions Applicable to Owner - Property.

An order to correct a code violation and any sanction pertaining to a structure or a parcel of property as a result of a finding of a code violation shall attach to the property as well as to the owner of the property, so that a finding of a code violation against one owner cannot be avoided by conveying or transferring

the property to another owner. Any subsequent transferee or owner of property takes subject to the findings, decision and order of a Hearing Officer under this Division.

**DIVISION 3. ADMINISTRATIVE ADJUDICATION
OF VEHICULAR STANDING AND PARKING VIOLATIONS**

Sec. 2-330. Purpose.

The administrative adjudication system provided for in this Division shall have as its purpose the fair and efficient enforcement of municipal regulations through the administrative adjudication of vehicular parking and standing violations within the Village of Fox River Grove (“Village”). The administrative adjudication system established by this Division shall only have authority to adjudicate civil offenses carrying fines not in excess of two hundred fifty (\$250) dollars that occur after the effective date of the ordinance adopting this Division. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-331. Scope of Division.

This Division shall only apply to violations of any vehicular parking and standing violations of the Village of Fox River Grove’s Code of Ordinances which shall include but not be limited to any violation of any provision of Article IV “Parking” of Chapter 15 of the Village of Fox River Grove’s Code of Ordinances. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-332. Notice of Violation.

- (a) The administrative adjudication provisions of this Division shall be initiated by a written Notice of Violation that shall be issued to the registered owner or lessee of the vehicle. The Notice of Violation shall be served by affixing the original or a facsimile of the Notice of Violation to an unlawfully parked vehicle or by handing the Notice of Violation to the operator of the vehicle if he or she is present.
- (b) A Village Police Officer or other person authorized by Village Ordinance to issue and serve parking and standing violation notices shall certify the correctness of the facts entered on the violation notice by signing his or her name to the notice at the time of service or in the case of a notice produced by a computerized device, by signing a single certificate to be kept by the Traffic Compliance Administrator attesting to the correctness of all notices produced by the device while it was under his or her control. The original or a facsimile of the Notice of Violation or, in the case of a notice produced by a computerized device, a printed record generated by the device showing the facts entered on the Notice, shall be retained by the Traffic Compliance Administrator, and shall be a record kept in the ordinary course of business. A Notice of Violation signed and served in accordance with this Section 2-332, a copy of the Notice, or the computer generated record shall be prima facie correct and shall be prima facie evidence of the correctness of the facts shown on the Notice. The Notice, copy, or computer generated record

shall be admissible in any subsequent administrative or legal proceedings.

- (c) The Notice of Violation shall include the following information:
1. the date, time and place of the violation of any parking or standing regulation;
 2. the particular regulation violated;
 3. the vehicle make and state registration number of the motor vehicle involved in the violation;
 4. the fine and any penalty that may be assessed for late payment;
 5. the identification number of the person issuing the Notice of Violation;
 6. a statement that the fine must be paid or a written request for an administrative hearing must be made within 14 days from the date of issuance of the Notice of Violation;
 7. a statement that the payment of the fine and of any applicable penalty shall operate as a final disposition of the violation;
 8. a statement that a failure to pay the fine or request an administrative hearing within 14 days after the date of issuance of the Notice of Violation will result in a 25% increase of the fine and may further result in an additional late fee of \$50.00 being assessed against the owner or lessee;
 9. a warning that the failure to pay the civil penalty or request an administrative hearing by the date specified may result in a final determination of liability and may result in the suspension of driving privileges for the registered owner or lessee of a vehicle;
 10. a statement indicating that a request for an administrative hearing must be made in writing to the Traffic Compliance Administrator and either hand-delivered to the Village or Post-Marked no later than 14 days after the date the Notice of Violation was issued; and
 11. a statement of the procedure that a person that is not a resident of the Village of Fox River Grove may use to contest the merits of a violation without attending an administrative hearing. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-333. Service of Written Notices.

Service of any written Notices required by this Division shall be sent by first class United States mail, postage prepaid, to the address of the registered owner of the cited vehicle as recorded with the Secretary of State or, if any Notice to that address is returned as undeliverable, to the last known address recorded

in a United States Post Office approved database, or, under Section 11-1306 of the Vehicle Code (625 ILCS 5/11-1306), to the lessee of the cited vehicle at the last address known to the lessor of the cited vehicle at the time of lease or, if any notice to that address is returned as undeliverable, to the last known address recorded in a United States Post Office approved database. If the owner or lessee provides the Village with an address for the service of any Notices, that address shall be used. The service shall be deemed complete as of the date of deposit in the United States mail. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-334. Termination of Violation Proceedings.

Payment of the full amount of any civil penalty and any late payment penalty that is due for a violation shall operate as a final disposition of a violation. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-335. Failure to Respond to a Notice of Violation; Second Notice of Violation.

If the registered owner or lessee of the vehicle fails to pay or contest the Notice of Violation within fourteen (14) days after the Notice of Violation is issued, they shall be summoned to appear at hearing which shall be held at a date which is not less than fourteen (14) days after the date a Written Notice of Violation is mailed. The Written Notice of Violation shall, include the following items:

- (a) the date, time and place of the violation of any parking or standing regulation;
- (b) the particular regulation violated;
- (c) the vehicle make and state registration number of the motor vehicle involved in the violation;
- (d) the fine and any penalty that may be assessed for late payment;
- (e) the identification number of the person issuing the Notice of Violation;
- (f) a statement that the payment of the fine and of any applicable penalty shall operate as a final disposition of the violation;
- (g) a statement of the procedure that a person that is not a resident of the Village of Fox River Grove may use to contest the merits of a violation without attending an administrative hearing.
- (h) a summons indicating the specific date, time and location at which a hearing will be held and at which the violation may be contested on its merits;
- (i) a statement that the failure either to pay the indicated fine for the violation prior to the date of the scheduled hearing, and the failure to appear at a scheduled hearing on the merits, will result in a determination of violation liability for the cited violation in the amount of the fine indicated, and that, upon the exhaustion of, or failure to exhaust, available administrative or judicial procedures for review, any unpaid fine, will constitute a debt due and owing the municipality that, if not paid, will be subject to an additional late fee of fifty (\$50.00) dollars. (Ord. No. 08-25, Sec. 2,

11-20-08)

Sec. 2-336. Hearing Procedures.

- (a) *General.* The owner or lessee of a vehicle may request a hearing within fourteen (14) days from the date of issuance of the Notice of Violation to challenge the evidence or set forth an applicable defense. A request for an administrative hearing must be made in writing to the Traffic Compliance Administrator and either hand-delivered to the Village or postmarked no later than fourteen (14) days after the date the Notice of Violation was issued. Upon receipt of a request for an administrative hearing, the Traffic Compliance Administrator shall send a Notice of Hearing to the owner or lessee by first class U.S. mail postage prepaid setting forth the date, time and location of the scheduled Administrative hearing. If the owner or lessee is not a resident of the Village of Fox River Grove, the Notice of Hearing shall include a statement of the procedure that a person that is not a resident of the Village of Fox River Grove may use to contest the merits of a violation without attending an administrative hearing. The hearing shall be scheduled and held on the next available hearing date which is not less than fourteen (14) days after the date the Notice of Hearing is mailed.
- (b) *Failure to Appear at a Scheduled Hearing; Final Determination of Liability.* A finding of liability shall be made if the owner or lessee has not paid the fine indicated and either: (1) fails to appear at the hearing; or (2) fails to comply with the procedures set forth in Section 2-337 that allow a non-resident to contest the merits of a violation without attending an administrative hearing. In both such instances a “Findings, Decision and Order” shall be served upon the owner or lessee along with a Notice of Determination of Liability within five (5) days. The Notice of Determination of Liability and the “Findings, Decision and Order” may be incorporated into one (1) document. The Notice of Determination of Liability shall indicate that the amount of the fine that is due to the Village for the violation. The Notice of Determination of Liability shall inform owner or lessee that the liability determination will become final if the owner or lessee does not, within twenty-one (21) days, either pay the indicated penalty to the Village or petition the Village to set aside the determination of liability based on any one of the grounds set forth in Section 2-340 of this Division. If the penalty is not paid or a petition pursuant to Section 2-340 of this Division is not filed within twenty-one (21) days after the date of issuance of a Notice of Determination of Liability, a Notice of Final Determination of Liability will be issued. The Notice of Final Determination of Liability shall include all the items set forth in Section 2-339 of this Division. If the penalty due the Village is not paid within fourteen (14) days after the date that a Notice of Final Determination of Liability is issued, the registered owner or lessee shall pay an additional late fee of fifty (\$50.00) dollars.
- (c) *Contested Hearings; Decision; Final Determination of Liability.*
- (1) When the owner or lessee appears at the hearing, the Hearing Officer shall hold a hearing and issue his/her Findings, Decisions, and Order indicating whether a the owner or lessee is, or is not, in violation of the relevant Section of the Village’s Code of Ordinances. If a

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non-resident of the Village of Fox River Grove complies with the procedures to contest the merits of a violation without attending the administrative hearing, the Hearing Officer shall review all the documents and statements submitted by the non-resident owner or lessee and issue his/her Findings, Decisions, and Order indicating whether a the owner or lessee is, or is not, in violation of the relevant Section of the Village's Code of Ordinances. The Findings, Decision and order shall include the amount of any monetary sanction due the Village. The Hearing Officer shall require that the Village prove the existence of a violation by a preponderance of the evidence. The formal rules of evidence shall not apply to the hearing. The hearing shall be recorded and the Hearing Officer shall be empowered to administer oaths and to secure by subpoena both the attendance of witnesses and the production of relevant books, papers and documents. Persons appearing at the hearing may be represented by counsel at their expense.

- (2) If a finding of liability is made at the hearing, the "Findings, Decision and Order" and a Notice of Determination of Liability shall be sent to the registered owner or lessee within five (5) days. The Notice of Determination of Liability and the "Findings, Decision and Order" may be incorporated into one (1) document. The Notice of Determination of Liability shall inform the owner or lessee that have been found liable and impose a civil penalty indicated for the Violation. The Notice of Determination of Liability shall inform the owner or lessee of the date that the "Findings, Decision and Order" and the Notice of Determination of Liability was served upon them by depositing same in the U.S. Mail, in a sealed envelope addressed to them with postage prepaid ("Date of Service") and advise the owner or lessee that they may respond by:
 - a. paying the indicated civil penalty within thirty-five (35) days of the Date of Service in which case the matter will be terminated; or
 - b. seeking judicial review of the Hearing Officer's decision in the Circuit Court within the time limits and pursuant to the procedures set forth in the Administrative Review Act (735 ILCS 5/3-101 *et.seq.*) and of the Illinois Code of Civil Procedure.

The Notice of Determination of Liability shall state that the liability determination will become final if they failure to either: (1) timely pay the civil penalty; or (2) timely seek judicial, review.

- (3) A Final Determination of Violation Liability shall occur after a Hearing Officer's determination of violation liability and the exhaustion of or failure to exhaust any judicial review. A Notice of Final Determination of Violation Liability shall be sent to the registered owner and/or lessee following the final determination of violation liability and the exhaustion of or failure to exhaust any judicial review. The Notice of Final Determination of Liability shall include all the items set forth in Section 2-339 of this Division. If the fine due the Village is not paid within fourteen (14) days after the date that a Notice of Final Determination is issued, the registered owner or lessee shall pay the

additional late fee due for the violation. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-337. Optional Hearing Procedures for Non-Residents.

Where the registered owner or lessee of a vehicle is not a resident of the Village but seeks to contest the merits of a violation, such person may contest the charges using the same available defenses as stated in this Division without attending an administrative hearing by submitting any and all documentary evidence and any written statement to the Traffic Compliance Administrator no later than the day prior to the date of the scheduled hearing along with a signed written statement reflecting that they are Non-Residents of the Village of Fox River Grove. The Traffic Compliance Administrator shall forward all timely-submitted materials to the Hearing Officer for review and determination. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-338. Defenses.

The following may be considered defenses by a Hearing Officer for any violation of the Village of Fox River Grove's Code of Ordinances which are adjudicated pursuant to this Division:

- (a) that the motor vehicle or registration plates of the motor vehicle were stolen before the violation occurred, and not under the control of or in the possession of the owner at the time of the violation; or
- (b) that the vehicle that was in violation was no longer owned by the defendant at the date and time of the violation.

To demonstrate that the motor vehicle or the registration plates were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation, the owner must submit proof that a report concerning the stolen motor vehicle or registration plates was filed with a law enforcement agency in a timely manner. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-339. Contents of a Notice of Final Determination of Liability.

The Notice of Final Determination of Liability shall include the following information:

- (a) a statement that the unpaid fine indicated for the violation is a debt due and owing to the Village of Fox River Grove;
- (b) a warning that the failure to pay the indicated fine within fourteen (14) days after the date that the Notice of Final Determination is issued will result in a late fee of fifty dollars (\$50.00) being added to the original fine; and
- (c) a warning that the failure to pay any amounts due the Village may result in the Village filing a petition in the Circuit Court to have the unpaid fines rendered as a judgment against the

registered owner or lessee;

- (d) a warning that the failure to pay any amounts due the Village may result in the suspension of the person's drivers license for failure to pay fines or penalties for ten (10) or more parking violations. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-340. Petitions to Set Aside Determination.

- (a) If the registered owner or lessee of the vehicle receives a Notice of Determination of Liability because they failed to appear at a scheduled hearing on the violation in person or comply with the provisions of Section 2-337, they may file a Petition to set aside a determination of liability with the Traffic Compliance Administrator within twenty-one (21) days of the date of issuance of the Notice of Determination of Liability. The Petition to set aside a determination of liability must be filed with or mailed to the Traffic Compliance Administrator within twenty-one (21) days after the date of issuance of the Notice of Determination of Liability.
- (b) The grounds for the Petition are limited to:
 - (1) proof the person was not the owner or lessee of the cited vehicle on the date of the violation in question;
 - (2) the person having already paid the fine for the violation in question; or
 - (3) excusable failure to attend or request a hearing.
- (c) Upon receipt of a timely petition to set aside the determination of liability, the Traffic Compliance Administrator shall review the petition to determine if cause has been shown to set aside the determination. If cause has been shown, the Village shall forward the petitioner a new hearing date on which the petitioner must appear to present his case. The Village shall notify the petitioner of the decision to grant a hearing or deny the petition within fourteen (14) days after the Petition is received. If the owner or lessee fails to appear at a hearing that is scheduled after a petition filed under this Section is granted, they shall be issued a Notice of Final Determination of Liability. The Notice of Final Determination of Liability shall include all the items set forth in Section 2-339 of this Division. If the fine due the Village is not paid within fourteen (14) days after the date that a Notice of Final Determination is issued, the registered owner or lessee shall pay the additional late fee indicated for the violation. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-341. Notice of Impending Drivers License Suspension

- (a) A Notice of Impending Drivers License Suspension shall be sent to the person liable for any fine or penalty that remains due and owing on ten (10) or more parking violations. The Notice of Impending Drivers License Suspension shall state the following information:

- (3) the failure to pay the fines owing within forty-five (45) days of the notice's date will result in the Village notifying the Secretary of State that the person is eligible for initiation of suspension proceedings under Section 6-306.5 of the Vehicle Code (625 ILCS 5/6-306.5); and
 - (4) a statement that the person may obtain a copy of the original tickets imposing a fine by sending a self-addressed, stamped envelope to the Village along with a request for the copy.
- (b) The Notice of Impending Drivers License Suspension shall be sent by first class mail, postage prepaid, to the address recorded with the Secretary of State or, if any notice to that address is returned as undeliverable, to the last known address recorded in a United States Post Office approved database. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-342. Drivers License Suspension.

- (a) The Traffic Compliance Administrator, by certified report, may request that the Secretary of State suspend the driving privileges of an owner of a registered vehicle who has failed to pay any fine or penalty due and owing as a result of ten (10) or more parking violations. The report shall be certified and contain the following:
- (1) the name, last known address as recorded with the Secretary of State of the owner or lessee, or at the last address known to the lessor of the cited vehicle at the time of the lease or as recorded in a United States Post Office approved database if any notice sent under this Division is returned as undeliverable, and the driver's license number of the person who failed to pay the fine or penalty and the registration number of any vehicle known to be registered to such person in a state;
 - (2) the name of the municipality making the report pursuant to this Section; and
 - (3) a statement that a Notice of Impending Driver's License Suspension has been sent to the person named in the report at the address recorded with the Secretary of State or at the last address known to the lessor of the cited vehicle at the time of the lease or, if any notice sent under this Article is returned as undeliverable at the last known address recorded at a United States Post Office approved database; the date on which such notice was sent; and address to which such notice was sent.
- (b) The Traffic Compliance Administrator shall notify the Secretary of State whenever a person named in the certified report has paid the previously recorded fine or penalty or whenever the municipality determines that the original report was in error. A certified copy of such notification shall also be given upon request and at no additional charge to the person named therein.

- (c) Any person receiving notice from the Secretary of State that their driving privileges may be

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suspended at the end of a specified period may challenge the accuracy of the certified report prepared by the Traffic Compliance Administrator. The person shall, within seven (7) days after having received notice from the Secretary of State, request an opportunity to speak with the Traffic Compliance Administrator to challenge the accuracy of the certified report. If the Traffic Compliance Administrator determines that the original report was in error due to the fact that the person challenging the report was not the owner or lessee of the vehicle or that the person has already paid their fine for the ten (10) or more parking violations, the Traffic Compliance Administrator shall immediately notify the Secretary of State of such error in a subsequent certified report. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-343. Schedule of Fines for Parking Violations.

The following schedule of fines shall apply to parking violations adjudicated pursuant to this Division:

Code Section(s)	Violation Description	Fine A See Note 1	Fine B See Note 2	Late Fee See Note 3
15-146	Parking in no parking zone	\$50.00	\$62.50	\$50.00
15-147-148	Parking prohibitions	\$25.00	\$31.25	\$50.00
15-149	Restricted parking winter months - snow	\$25.00	\$31.25	\$50.00
15-150	Exceeding parking time limits for certain streets	\$25.00	\$31.25	\$50.00
15-154	Displaying vehicle for sale on street	\$25.00	\$31.25	\$50.00
15-155	Loading zones	\$25.00	\$31.25	\$50.00
15-156	Illegal parking/blocking alley	\$50.00	\$62.50	\$50.00
15-159	Parking on street prohibitions	\$25.00	\$31.25	\$50.00
15-160	Unattended vehicle	\$50.00	\$62.50	\$50.00
15-163	Unauthorized use of parking space used for persons with disabilities or disabled veterans	\$250.00	\$312.50	\$50.00
15-164	Parking municipal lot violations	\$25.00	\$31.25	\$50.00
15-166	Parking without permit	\$50.00	\$62.50	\$50.00

Note 1: The amount listed under the column titled “Fine A” shall be the fine if either the fine is paid or a request for an administrative hearing is made within fourteen (14) days after the date of issuance of the Notice of Violation.

Note 2: The amount listed under the column titled “Fine B” shall be the fine if the fine is **not** paid and a request for an administrative hearing is **not** made within fourteen (14) days after the date of issuance of the Notice of Violation.

Note 3: The Late Fee shall be an additional amount due the Village if the fine owed the Village is not

paid within fourteen (14) days after the date that a Notice of Final Determination is issued. If a Late Fee is applicable, it shall be added to the fine due under either the column titled "Fine A" or "Fine B," whichever is applicable, in order to determine the total amount due the Village for a violation.

DIVISION 4. ADMINISTRATIVE ADJUDICATION OF AUTOMATED TRAFFIC LAW ENFORCEMENT SYSTEM VIOLATIONS

Sec. 2-350. Definitions.

- (a) *Automated traffic law enforcement system* means a device within the Village with one or more motor vehicle sensors working in conjunction with a red light signal to produce recorded images of motor vehicles entering an intersection against a steady or flashing red signal indication in violation of Section 11-306 of the Illinois Vehicle Code ("Vehicle Code"), 625 ILCS 5/11-306, or similar violation of the Village Municipal Code.
- (b) *Recorded images* means images produced by the automated traffic law enforcement system, which consist of either: (1) two (2) or more photographs; (2) two (2) or more microphotographs; (3) two (2) or more electronic images; or, (4) a video recording showing a motor vehicle and, on at least one (1) image or portion of the recording, clearly identifying the registration plate number of the motor vehicle.

When the Village produces a recorded image of a motor vehicle's violation of a provision of this Division, the Village must make the recorded images of the violation accessible to the vehicle owner or lessee by providing the owner or lessee with a website address, accessible through the Internet. (Ord. No. 08-25, Sec. 2, 11-20-08; Or. 10-37, Sec. 1, 12-16-10)

Sec. 2-351. Purpose.

The administrative adjudication system provided for in this Division shall have as its purpose the fair and efficient enforcement of municipal regulations through the administrative adjudication of automated traffic law violations within the Village of Fox River Grove ("Village"). The administrative adjudication system established by this Division shall only have authority to adjudicate civil offenses carrying fines not in excess of two hundred fifty (\$250.00) dollars (that occur after the effective date of the ordinance adopting this Division. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-352. Scope of Division.

This Division shall only apply when an automated traffic law enforcement system records a motor vehicle entering an intersection in violation of Section 15-224 of the Village of Fox River Grove's Code of Ordinances. An automated traffic law enforcement system shall not be used to provide recorded images of a motor vehicle for the purpose of recording its speed. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-353. Notice of Violation.

- (a) When the automated traffic law enforcement system records a motor vehicle entering an intersection in violation of Section 15-224 of the Village of Fox River Grove's Code of Ordinances, a written Notice of Violation shall be issued to the registered owner or lessee of the vehicle.
- (b) A Notice of Violation associated with an automated traffic law violation shall require a review of the associated recorded image by the Traffic Compliance Administrator, who shall inspect the image and determine whether the motor vehicle was being operated in violation of Section 15-224, or whether one of the defenses enumerated in Section 2-359 is visibly applicable upon inspection. Upon determination that the recorded image captures a violation and that no defense applies, the Notice of Violation shall be served upon the registered vehicle owner or lessee in the manner provided for in Section 2-354. If the Traffic Compliance Administrator determines that service of the Notice of Violation has not been, and cannot be obtained, no further action shall be taken upon the Notice of Violation. The original or a facsimile of the Notice of Violation or, in the case of a notice produced by a computerized device, a printed record generated by the device showing the facts entered on the notice, shall be retained by the Traffic Compliance Administrator, and shall be a record kept in the ordinary course of business. A Notice of Violation signed and served in accordance with this Section 2-353, a copy of the notice, or the computer generated record shall be prima facie correct and shall be prima facie evidence of the correctness of the facts shown on the notice. The notice, copy, or computer generated record shall be admissible in any subsequent administrative or legal proceedings.
- (c) The Notice of Violation shall include the following information:
 - (1) the name and address of the registered owner or lessee of the vehicle determined pursuant to Section 2-354 of this Division;
 - (2) the make (only if discernable) and registration number of the motor vehicle involved in the violation;
 - (3) the violation charged;
 - (4) the location where the violation occurred;
 - (5) the date and time of the violation;
 - (6) a copy of the recorded images;
 - (7) a statement that a civil penalty in the amount of one hundred (\$100.00) dollars or a written request for an administrative hearing must be made within fourteen (14) days from the date of issuance of the Notice of Violation;

- (8) a statement that the payment of the civil penalty and any applicable fine shall operate as a final disposition of the violation;
 - (9) a statement that a failure to pay the civil penalty or request an administrative hearing within fourteen (14) days after the date of issuance of the Notice of Violation may result in an additional late fee of one hundred (\$100.00) dollars being assessed against the owner or lessee;
 - (10) a warning that the failure to pay the civil penalty or request an administrative hearing by the date specified is an admission of liability that will result in a final determination of liability and may result in the suspension of driving privileges for the registered owner or lessee of a vehicle;
 - (11) a statement that the recorded images constitute *prima facie* evidence of a violation of Section 15-224 of the Village of Fox River Grove's Code of Ordinances;
 - (12) a statement indicating that a request for an administrative hearing must be made in writing to the Traffic Compliance Administrator and either hand-delivered to the Village or postmarked no later than fourteen (14) days after the date the Notice of Violation was issued; and
 - (13) a statement of the procedure that a person that is not a resident of the Village of Fox River Grove may use to contest the merits of a violation without attending an administrative hearing.
 - (14) a website address, accessible through the Internet, where the vehicle owner or lessee may view the recorded images of the violation.
- (d) The Traffic Compliance Administrator may, in his/her discretion, but is not obligated to send additional Notices of Violation. In the event that an additional Notice of Violation is sent, no determination of liability shall be made until the time to either pay the civil penalty or contest the violation has passed. (Ord. No. 08-25, Sec. 2, 11-20-08; Ord. No. 10-37, Sec. 2, 12-16-10)

Sec. 2-354. Service of a Notice of Violation and all Subsequent Notices.

- (a) The Notice of Violation shall be served within thirty (30) days after the Illinois Secretary of State notifies the Village of the identity of the registered owner or lessee of the vehicle, and in no event later than ninety (90) days following the violation. Service of the Notice of Violation and all subsequent Notices required by this Division shall be sent by first class United States mail, postage prepaid, to the address of the registered owner of the cited vehicle as recorded with the Secretary of State or, if any notice to that address is returned as undeliverable, to the last known address recorded in a United States Post Office approved database, or, under Section 11-1306 of

the Vehicle Code (625 ILCS 5/11-1306), to the lessee of the cited vehicle at the last address known to the lessor of the cited vehicle at the time of lease or, if any notice to that address is returned as undeliverable, to the last known address recorded in a United States Post Office approved database. If the owner or lessee provides the Village with an address for the service of any Notices, that address shall be used. The service shall be deemed complete as of the date of deposit in the United States mail.

- (b) The Village shall only be required to notify a lessee of a Notice of Violation if the leasing company/lessor provides the lessee's name by an affidavit and a copy of the lease within sixty (60) days of the notice's issuance. If the driver information is not provided within sixty (60) days, the leasing company/lessor may be found liable. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-355. Termination of Violation Proceedings.

Payment of the full amount of any civil penalty and any late payment penalty that is due for a violation shall operate as a final disposition of a violation. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-356. Failure to Respond to a Notice of Violation; Final Determination of Liability.

If the registered owner or lessee of the vehicle fails to pay or contest the Notice of Violation within fourteen (14) days after the Notice of Violation is issued, a Notice of Determination of Liability will be sent to the owner or lessee indicating that a fine in the amount of one hundred (\$100.00) dollars is due to the Village. The Notice of Determination of Liability shall inform owner or lessee that the liability determination will become final if the owner or lessee does not, within thirty-five (35) days, either pay the one hundred (\$100.00) dollar penalty to the Village or petition the Village to set aside the determination of liability based on any one of the grounds set forth in Section 2-361 of this Division. If within thirty-five (35) days after the date of issuance of a Notice of Determination of Liability, the owner or lessee does not pay the one hundred (\$100.00) dollar penalty or petition the Village to set aside the determination pursuant to Section 2-361 of this Division, then a Notice of Final Determination of Liability will be sent to the owner or lessee. The Notice of Final Determination of Liability shall include all the items set forth in Section 2-360 of this Division. If the one hundred (\$100.00) dollar debt due the Village is not paid within fourteen (14) days after the date that a Notice of Final Determination of Liability is issued, the registered owner or lessee shall pay an additional late fee of one hundred (\$100.00) dollars. (Ord. No. 08-25, Sec. 2, 11-20-08; Ord. No. 10-37, Sec. 3, 12-16-10)

Sec. 2-357. Hearing Procedures.

- (a) *General.* The owner or lessee of a vehicle may request a hearing within fourteen (14) days from the date of issuance of the Notice of Violation to challenge the evidence or set forth an applicable defense. A request for an administrative hearing must be made in writing to the Traffic Compliance Administrator and either hand-delivered to the Village or postmarked no later than fourteen (14) days after the date the Notice of Violation was issued. Upon receipt of a request for an administrative hearing, the Traffic Compliance Administrator shall send a Notice of Hearing

to the owner or lessee by first class U.S. mail postage prepaid setting forth the date, time and location of the scheduled Administrative hearing. If the owner or lessee is not a resident of the Village of Fox River Grove, the Notice of Hearing shall include a statement of the procedure that a person that is not a resident of the Village of Fox River Grove may use to contest the merits of a violation without attending an administrative hearing. The hearing shall be scheduled and held on the next available hearing date which is not less than fourteen (14) days after the date the Notice of Hearing is mailed.

- (b) *Failure to Appear at a Scheduled Hearing; Final Determination of Liability.* A finding of liability shall be made if the owner or lessee either: (1) fails to appear at the hearing; or (2) fails to comply with the procedures set forth in Section 2-358 that allow a non-resident to contest the merits of a violation without attending an administrative hearing. In both such instances a “Findings, Decision and Order” shall be served upon the owner or lessee along with a Notice of Determination of Liability within five (5) days. The Notice of Determination of Liability and the “Findings, Decision and Order” may be incorporated into one (1) document. The Notice of Determination of Liability shall indicate that a fine in the amount of one hundred dollars (\$100.00) is due to the Village. The Notice of Determination of Liability shall inform owner or lessee that the liability determination will become final if the owner or lessee does not, within thirty-five (35) days, either pay the one hundred (\$100.00) dollar penalty to the Village or petition the Village to set aside the determination of liability based on any one of the grounds set forth in Section 2-361 of this Division. If the one hundred (\$100) dollar penalty is not paid or a petition pursuant to Section 2-361 of this Division is not filed within thirty-five (35) days after the date of issuance of a Notice of Determination of Liability, a Notice of Final Determination of Liability will be issued. The Notice of Final Determination of Liability shall include all the items set forth in Section 2-360 of this Division. If the one hundred (\$100.00) dollar debt due the Village is not paid within fourteen (14) days after the date that a Notice of Final Determination of Liability is issued, the registered owner or lessee shall pay an additional late fee of one hundred (\$100.00) dollars. (Ord. 10-37, Sec. 4, 12-16-10)

- (c) *Contested Hearings; Decision; Final Determination of Liability.*

- (1) When the owner or lessee appears at the hearing, the Hearing Officer shall hold a hearing and issue his/her Findings, Decisions, and Order indicating whether the owner or lessee is, or is not, in violation of Section 15-224 of the Village’s Code of Ordinances. If a non-resident of the Village of Fox River Grove complies with the procedures to contest the merits of a violation without attending the administrative hearing, the Hearing Officer shall review all the documents and statements submitted by the non-resident owner or lessee and issue his/her Findings, Decisions, and Order indicating whether the owner or lessee is, or is not, in violation of Section 15-224 of the Village’s Code of Ordinances. The Hearing Officer shall require that the Village prove the existence of a violation by a preponderance of the evidence. The formal rules of evidence shall not apply to the hearing. The hearing shall be recorded and the Hearing Officer shall be empowered to administer oaths and to secure by subpoena both the attendance of witnesses and the

production of relevant books, papers and documents. Persons appearing at the hearing may be represented by counsel at their expense.

- (2) If a finding of liability is made at the hearing, the “Findings, Decision and Order” and a Notice of Determination of Liability shall be sent to the registered owner or lessee within five (5) days. The Notice of Determination of Liability and the “Findings, Decision and Order” may be incorporated into one document. The Notice of Determination of Liability shall inform the owner or lessee that have been found liable and impose a civil penalty for the violation in the amount of one hundred (\$100.00) dollars. The Notice of Determination of Liability shall inform the owner or lessee of the date that the “Findings, Decision and Order” and the Notice of Determination of Liability was served upon them by depositing same in the U.S. Mail, in a sealed envelope addressed to them with postage prepaid (“Date of Service”) and advise the owner or lessee that they may respond by:
 - a. paying the one hundred (\$100.00) dollar civil penalty within thirty-five (35) days of the Date of Service in which case the matter will be terminated; or
 - b. seeking judicial review of the Hearing Officer’s decision in the Circuit Court within the time limits and pursuant to the procedures set forth in the Administrative Review Act (735 ILCS 5/3-101 *et.seq.*) and of the Illinois Code of Civil Procedure.

The Notice of Determination of Liability shall state that the liability determination will become final if they failure to either: (1) timely pay the civil penalty; or (2) timely seek judicial, review.

- (3) A Final Determination of Violation Liability shall occur after a Hearing Officer’s determination of violation liability and the exhaustion of or failure to exhaust any judicial review. A Notice of Final Determination of Violation Liability shall be sent to the registered owner and/or lessee following the final determination of an automated traffic law violation liability and the exhaustion of or failure to exhaust any judicial review. The Notice of Final Determination of Liability shall include all the items set forth in Section 2-360 of this Division. If the one hundred (\$100.00) dollar debt due the Village is not paid within fourteen (14) days after the date that a Notice of Final Determination is issued, the registered owner or lessee shall pay an additional late fee of one hundred (\$100.00) dollars. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-358. Optional Hearing Procedures for Non-Residents.

Where the registered owner or lessee of a vehicle is not a resident of the Village but seeks to contest the merits of a Notice of Violation, such person may contest the charges using the same available defenses as stated in this Division without attending an administrative hearing by submitting any and all documentary evidence and any written statement to the Traffic Compliance Administrator no later than the day prior to the date of the scheduled hearing along with a signed written statement reflecting that

they are Non-Residents of the Village of Fox River Grove. The Traffic Compliance Administrator shall forward all timely-submitted materials to the Hearing Officer for review and determination. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-359. Defenses.

The following may be considered defenses by a Hearing Officer for a violation of Section 15-224 of the Village of Fox River Grove's Code of Ordinances:

- (a) that the motor vehicle or registration plates of the motor vehicle were stolen before the violation occurred, and not under the control of or in the possession of the owner at the time of the violation;
- (b) that the driver of the vehicle passed through the intersection when the light was red either (i) in order to yield the right-of-way to an emergency vehicle or (ii) as part of a funeral procession; or
- (c) that the vehicle that was in violation was no longer owned by them at the date and time of the violation.

To demonstrate that the motor vehicle or the registration plates were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation, the owner must submit proof that a report concerning the stolen motor vehicle or registration plates was filed with a law enforcement agency in a timely manner. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-360. Contents of a Notice of Final Determination of Liability.

The Notice of Final Determination of Liability shall include the following information:

- (a) a statement that the unpaid fine of one hundred (\$100.00) dollars is a debt due and owing to the Village of Fox River Grove;
- (b) a warning that the failure to pay the one hundred (\$100.00) dollar fine within fourteen (14) days after the date that the Notice of Final Determination is issued will result in a late fee of one hundred (\$100.00) dollars added to the original fine; and
- (c) a warning that the failure to pay any amounts due the Village may result in the Village filing a petition in the Circuit Court to have the unpaid fines rendered as a judgment against the registered owner or lessee;
- (d) a warning that the failure to pay any amounts due the Village may result in the suspension of the person's drivers license for failure to pay fines or penalties for five (5) or more violations under this Division. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-361. Petitions to Set Aside Determination.

- (a). If the registered owner or lessee of the vehicle receives a Notice of Determination of Liability because they either:
 - (1) failed to pay or contest the Notice of Violation within fourteen (14) days after the date the Notice of Violation was issued (See: Section 2-356), or
 - (2) failed to appear at a hearing in person or comply with the provisions of Section 2-358 (See: Section 2-357(b));

they may file a Petition to set aside a determination of liability with the Traffic Compliance Administrator within thirty-five (35) days of the date of issuance of the Notice of Determination of Liability. The Petition to set aside a determination of liability must be filed with or mailed to the Traffic Compliance Administrator within thirty-five (35) days after the date of issuance of the Notice of Determination of Liability. (Ord. 10-37, Sec. 5, 12-16-10)

- (b) The grounds for the Petition are limited to:
 - (1) proof the person was not the owner or lessee of the cited vehicle on the date of the violation in question;
 - (2) the person having already paid the fine for the violation in question; or
 - (3) excusable failure to attend or request a hearing.
- (c) Upon receipt of a timely petition to set aside the Determination of Liability, the Traffic Compliance Administrator shall review the petition to determine if cause has been shown to set aside the Determination. If cause has been shown, the Village shall forward the petitioner a new hearing date on which the petitioner must appear to present his case. The Village shall notify the petitioner of the decision to grant a hearing or deny the petition within fourteen (14) days after the Petition is received. If the owner or lessee fails to appear at a hearing that is scheduled after a petition filed under this Section is granted, they shall be issued a Notice of Final Determination of Liability. The Notice of Final Determination of Liability shall include all the items set forth in Section 2-360 of this Division. If the one hundred (\$100.00) dollar debt due the Village is not paid within fourteen (14) days after the date that a Notice of Final Determination is issued, the registered owner or lessee shall pay an additional late fee of one hundred (\$100.00) dollars. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-362. Notice of Impending Drivers License Suspension

- (a) A Notice of Impending Drivers License Suspension shall be sent to the person liable for any fine or penalty that remains due and owing on five (5) or more violations of this Division. The Notice of Impending Drivers License Suspension shall state the following information:

- (1) the failure to pay the fines owing within forty-five (45) days of the notice's date will result in the Village notifying the Secretary of State that the person is eligible for initiation of suspension proceedings under Section 6-306.5 of the Vehicle Code (625 ILCS 5/6-306.5);
 - (2) a statement that the person may obtain a copy of the original tickets imposing a fine by sending a self-addressed, stamped envelope to the Village along with a request for the copy.
- (b) The Notice of Impending Drivers License Suspension shall be sent by first class mail, postage prepaid, to the address recorded with the Secretary of State or, if any notice to that address is returned as undeliverable, to the last known address recorded in a United States Post Office approved database. (Ord. No. 08-25, Sec. 2, 11-20-08)

Sec. 2-363. Drivers License Suspension.

- (a) The Traffic Compliance Administrator, by certified report, may request that the Secretary of State suspend the driving privileges of an owner of a registered vehicle who has failed to pay any fine or penalty due and owing as a result of five (5) automated traffic violations. The report shall be certified and contain the following:
- (1) the name, last known address as recorded with the Secretary of State of the owner or lessee, or at the last address known to the lessor of the cited vehicle at the time of the lease or as recorded in a United States Post Office approved database if any notice sent under this Division is returned as undeliverable, and the driver's license number of the person who failed to pay the fine or penalty and the registration number of any vehicle known to be registered to such person in a state;
 - (2) the name of the municipality making the report pursuant to this Section; and
 - (3) a statement that a Notice of Impending Driver's License Suspension has been sent to the person named in the report at the address recorded with the Secretary of State or at the last address known to the lessor of the cited vehicle at the time of the lease or, if any notice sent under this Article is returned as undeliverable at the last known address recorded at a United States Post Office approved database; the date on which such notice was sent; and address to which such notice was sent.
- (b) The Traffic Compliance Administrator shall notify the Secretary of State whenever a person named in the certified report has paid the previously recorded fine or penalty or whenever the municipality determines that the original report was in error. A certified copy of such notification shall also be given upon request and at no additional charge to the person named therein.

ADMINISTRATION

- (c) Any person receiving notice from the Secretary of State that their driving privileges may be suspended at the end of a specified period may challenge the accuracy of the certified report prepared by the Traffic Compliance Administrator. The person shall, within seven (7) days after having received notice from the Secretary of State, request an opportunity to speak with the Traffic Compliance Administrator to challenge the accuracy of the certified report. If the Traffic Compliance Administrator determines that the original report was in error due to the fact that the person challenging the report was not the owner or lessee of the vehicle or that the person has already paid their fine for the five (5) or more automated traffic violations, the Traffic Compliance Administrator shall immediately notify the Secretary of State of such error in a subsequent certified report. (Ord. No. 08-25, Sec. 2, 11-20-08)