

THE NEBRASKA MANUAL FOR COUNTY FAIRS

Sponsored by

Nebraska Association of Fair Managers

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This Manual has been prepared to provide general information to assist agricultural societies and county fair boards in administering their daily business affairs. This is not specific legal advice and does not create an attorney/client relationship. Accordingly, it is recommended that you consult with legal counsel prior to taking any action with regard to recommended procedures contained in this Manual.

CHAPTER I

FORMATION AND ADMINISTRATION

I.

SUMMARY OF NEBRASKA LAWS REGARDING COUNTY FAIRS

A. Introduction.

In 1997, the Nebraska Legislature enacted substantial revisions to the state statutes governing county agricultural societies and county fair boards. An agricultural society board of directors must, by statute, be elected by the county's registered voters. A county fair board may be elected by the registered voters or may be appointed by the county board. The relevant statutes provide the following with all section references being to the Nebraska Revised Statute Sections:

COUNTY AGRICULTURAL SOCIETIES

Section 2-250. The County Agricultural Society Act governs all matters regarding a county agricultural society.

Section 2-251. Purpose. The purpose of the agricultural society has been broadened to require and authorize agricultural societies existing, organized, or reinstated after January 1, 1998, to offer and award premiums and to perform such other acts which will improve agriculture, industry, homes, and communities in Nebraska. This change in the law eliminates any prior concern that an agricultural society's sole purpose is to run the county fair. Providing community-based facilities now falls within the statutory purpose of an agricultural society.

Section 2-252. Constitution and Bylaws. An agricultural society is required to adopt a constitution and bylaws and may, upon approval of its board of directors, incorporate as a nonprofit corporation in Nebraska. In addition the statute requires that, if incorporated, an agricultural society should classify itself as a public benefit corporation. This is a specific classification made applicable to entities such as an agricultural society under the Nebraska Nonprofit Business Corporation Act. *See* Neb. Rev. Stat. § 21-19,177.

Section 2-253. Annual Meeting. All agricultural societies shall hold an annual meeting open to all registered voters of the county. This section substantially changes the prior law which provided for membership in the agricultural society. No longer will any agricultural society be governed by its "members." Instead, all registered voters of the county are eligible to attend the annual meeting of the agricultural society, vote on candidates nominated to serve on the board of directors, and take up such other matters as may come before the annual meeting.

The County Agricultural Society Act requires published notice of the annual meeting "in a newspaper of general circulation within the county once at least five days before the scheduled annual meeting." The statute requires that the published notice state the time and place of the annual meeting and that all registered voters of the county are eligible to participate and vote at the annual meeting. This statute also provides protocol where a voter is challenged as

unqualified. If such person states that he or she is qualified and the challenge is not withdrawn, the person shall take an oath reduced to writing, in substance as follows: "I do solemnly swear (or affirm) that I am a citizen of the United States, that I am of the constitutionally prescribed age of an elector or upwards, that I am domiciled in this county, and that I am registered to vote in this county, so help me God." Every person taking such oath and signing his or her name to it shall be permitted to vote on all questions proposed at the meeting.

Sections 2-254 and 2-255. Formation. These statutes set out a procedure for forming an agricultural society in a county where no agricultural society exists. The statute requires 15% of the registered voters in the county who cast ballots for the office of governor in the next preceding general election to petition the county board for creation of an agricultural society. If the signatures are verified, the county board shall declare the petition approved and schedule an organizational meeting of the agricultural society. The same notice requirements apply to the organizational meeting as apply to the annual meeting of an agricultural society.

Section 2-256. Officers. In subsection (1) of this statute, the board of directors of the agricultural society are required to elect a chairperson and such other officers as may be necessary. The bylaws and constitution adopted by the agricultural society (either past or present) will govern the number of officers to be elected.

At Large or By District. Subsection (2) requires all constitution and bylaws governing the various agricultural societies to disclose whether members of the board of directors are elected from the county at large or from districts. If district elections are utilized, the board of directors shall divide the county into districts of substantially equal population not less than three months prior to the annual meeting. This section will require some individual attention be given to your constitution and bylaws, and, further, that the county be divided into districts of substantially equal population if your agricultural society elects to choose its board members on a district basis. If your agricultural society does not presently have a constitution and bylaws, one should be adopted.

Transition. Subsection (3) provides that, if any newly-created agricultural society replaces an existing county fair board, the county fair board shall remain in existence until the agricultural society has had its first annual meeting.

Section 2-257. Operational Tax Levy. This section authorizes the county board to levy and assess a tax for the operation of the county agricultural society (sometimes referred to as the "Operational Tax Levy"). The levy made by the county board is governed by Neb. Rev. Stat. § 77-3443, which authorizes the county to allocate up to 15 cents of its levy authority to all other political subdivisions, including county agricultural societies. In other words:

1. County agricultural societies are classified as "all other political subdivisions" and this group of political subdivisions must share a total of 15 cents of levy authority granted to the county board.
2. Once the county board has established a levy for the county agricultural society, the county agricultural society can either accept the levy as granted or, in the

alternative, under Neb. Rev. Stat. § 77-3444, choose the far more difficult path of submitting the question of exceeding the levy to the registered voters in the county or hold a meeting of the registered voters in the county where at least 10 percent of the registered voters must attend the meeting and vote in favor of exceeding the levy limit as established by the county board.

3. In no event can the county agricultural society, either through special election or town meeting, ask for a levy which exceeds 3 1/2 cents per \$100 valuation of taxable valuation of property within the county.

Section 2-258. Operational Tax Levy Purpose. This section defines the uses of tax money raised from the operational tax levy. The operational tax levy can be used for the purposes of paying premiums and for permanent improvements for such fair; for the purpose of purchasing the necessary fair supplies, advertising, and the paying of necessary labor in connection therewith; and for other necessary expenses for operation of the fair. In counties having a population of more than 60,000 inhabitants, but not more than 350,000 inhabitants, and also containing a city of the primary class, the money so raised may be used for permanent improvements on the county fairgrounds or Nebraska state fairgrounds, or for leasing, contracting for, or in any manner acquiring use of fairground facilities for such fair.

Section 2-259. Capital Levy. This section authorizes the county board to levy an additional tax at the request of the county agricultural society. This additional tax levy shall not exceed 3 1/2 cents per \$100 valuation and shall be restricted to use in acquiring an interest in real property to comprise a portion or all of the county fairgrounds or for the purpose of capital construction on and renovation, repair, improvement, and maintenance of the county fairgrounds. Such levy shall not exceed the amount actually required for such acquisition or work and shall fall within the 15 cent county levy authority for “all other political subdivisions.”

Section 2-260. Failure to Hold Fair. If an existing county agricultural society fails to hold a fair for at least three successive days, no money levied for that year shall be paid to the county agricultural society, but shall be paid into the general fund of the county. Thereafter, such money shall be paid by the county treasurer to the board of directors of such county agricultural society only after a sworn statement has been filed with the county clerk of such county, which statement shall be signed by the chairperson of the county agricultural society and shall set out details as to when and where such county fair is to be held.

Section 2-261. Nebraska Budget Act. County agricultural societies are subject to the Nebraska Budget Act (*See* Chapter III), the Nebraska Records Management Act (*See* Neb. Rev. Stat. §§ 84-1201 to 84-1228), and the Nebraska Open Meetings Act (*See* Neb. Rev. Stat. §§ 84-1408 to 84-1414). In addition, subsection 2 of this statute provides that the budget of each county agricultural society is subject to annual review, audit, and approval by the county board of the county in which such society is located.

Section 2-262. Eminent Domain. This section authorizes each county agricultural society to acquire, take, hold, and appropriate real estate through condemnation proceedings as set forth in Neb. Rev. Stat. §§ 76-704 to 76-724. The use of eminent domain procedure, however, is limited to not more than forty acres without the consent of the owner.

Section 2-263. Neglect. This section provides that in cases when a county agricultural society neglects for two years to hold a county fair or ceases to exist in any county where payments have been made for real estate or improvements for the use of the agricultural society, then in such event, all such real estate and improvements shall vest in fee simple in the county and the district court of the county, upon proof thereof, shall, upon petition of the county board, make a proper decree vesting the title of such property in the county.

Section 2-264. Sale/Exchange of Fairgrounds. This section authorizes a county agricultural society to exchange its real estate and improvements for other real estate or to sell its real estate for the purpose of acquiring other real estate for fairgrounds. In addition, the county agricultural society is vested with authority to execute, deliver, and accept all proper and necessary conveyances in connection with such exchange, sale, or purchase. In addition, a county agricultural society may purchase real estate and improve the same and the purchase price may be secured by mortgage or deed of trust.

Section 2-265. Dissolution. This section provides a procedure for dissolution for a county agricultural society. The procedure generally requires that upon the petition of not less than 15% of the registered voters of the county, as shown by the poll books of the last previous general election, the county board shall submit to the people of the county at a general or special election the ballot question of whether to dissolve the county agricultural society. If a majority of the votes cast on the proposition are in favor of the dissolution, the county board shall make an order dissolving the county agricultural society.

Section 2-266. Dissolution. Also dealing with dissolution, this section provides that upon dissolution all real and personal property which has been purchased for or by the county agricultural society may be sold or disposed of by the county board. Such property may also be appropriated by the county for any such lawful use or purpose.

Section 2-266.01. Dissolution. This section sets out a procedure for dissolution of a county agricultural society and the reformation of such agricultural society as either an elected or appointed county fair board. Generally the procedure requires the county agricultural society, by resolution, to request the county board to place the question of reformation before the registered voters of the county. If a majority of those voting on the question vote for reformation, the county board is authorized to proceed with the statutory requirements to form the new county fair board entity.

Section 2-267. Revival. This section authorizes the restoration, renewal, or revival of a county agricultural society which has become inoperative because of neglect in the discharge of its duties.

Section 2-268. Revival. This section sets out procedural requirements for the filing of a certificate of revival for an agricultural society which has become inoperative because of neglect in the discharge of its duties. Generally, this procedure involves the filing of a certificate with the Nebraska Secretary of State.

Section 2-269. Revival. This section also deals with reinstatement of a county agricultural society and its legal effect. Reinstatement of a county agricultural society has the effect of validating all contracts, acts, matters, and things made, done, or performed within the scope of the articles of incorporation, its officers, and its agents during the time the corporate existence of the agricultural society was inoperative.

Section 2-270. Revival. This section relates to reinstatement of an inoperative county agricultural society and the use by any other county agricultural society of the same name.

Section 2-271. Revival. This section also deals with reinstatement of a county agricultural society which has become inoperative. It gives authority to successor directors and officers until such time as an annual meeting is held and new directors are elected pursuant to the County Agricultural Society Act.

Section 2-272. Revival. This section requires that any certificate of revival filed with the Nebraska Secretary of State relating to the renewal and continuance of the existence of a county agricultural society also be filed with the county clerk in the county in which the principal office of the society is located.

Section 2-273. Revival. This section confers upon a renewed county agricultural society a continuing corporate existence and said corporation shall continue its existence for the time stated in its certificate of renewal and shall, in addition to the rights, privileges, and immunities conferred by its original articles of incorporation, possess and enjoy all of the benefits of the laws of this state which are applicable to the nature of its business and shall be subject to the restrictions and liabilities imposed on such agricultural society by the laws of this state.

COUNTY FAIR BOARDS

Section 2-221. In those counties where an elected or appointed county fair board has been authorized, the county fair board is empowered to do all things necessary for the proper management of the county fair.

Section 2-221.01. In two or more adjoining counties, the boards of a county agricultural society and a county fair board may hold joint fairs at one location.

Section 2-222. This section generally sets out the procedure for establishment of a county fair board, including the adoption of a resolution by the county board and/or the submission of a petition signed by the registered voters of the county.

Section 2-223. In any county accepting the provisions relating to county fair boards, the elected county fair board or the county board for an appointed county fair board may propose the issuance of bonds or levy of special tax for the purchase and improvement of real estate for county fair purposes in like manner as for the building of a courthouse.

Section 2-224. This section sets out the various procedures to be followed in connection with the creation of a county fair board and its membership.

Section 2-225. A county fair board shall select a president, vice president, and treasurer from its own number and may employ such persons as it deems necessary for the proper management of the fair.

Section 2-226. The members of a county fair board, other than the secretary if he or she is selected from the board members, shall receive no pay for their services, but shall be paid all necessary expenses. The secretary shall receive such salary payable at such times as the county fair board may provide.

Section 2-227. The county fair board may adopt such bylaws, rules, and regulations, as it deems necessary, and shall publish a premium list and do all such things necessary and proper for the successful management of the fair.

Section 2-228. If a county fair board is appointed by the county board, the county fair board shall report in writing to the county board as directed, including the showing of a complete statement and report of its actions. Such statement shall be kept in the office of the county clerk and shall be open to public inspection.

Section 2-229. Each appointed county fair board shall prepare and submit to the county board an itemized estimate of the amount of money necessary to be collected from taxation for the support and management of the county fair for the ensuing year. The county board, subject to Neb. Rev. Stat. § 77-3442, may levy such amounts of taxes as may be necessary for the county fair, including capital construction, renovation, repair, improvement, and maintenance of the county fairgrounds.

Each elected county fair board shall prepare an annual budget and certify the same on or before August 1st for the ensuing year subject to the limitations set out in Neb. Rev. Stat. § 77-3443. In addition, an elected county fair board may act to exceed the allocations as provided under Neb. Rev. Stat. § 77-3444, but, in no event, shall such levy exceed 3 1/2 cents per \$100 valuation.

Section 2-229.01. An elected county fair board may request and the county board has authority to levy an additional levy of up to 3 1/2 cents per \$100 valuation for capital construction, renovation, repair, improvement, and maintenance of the county fairgrounds. This levy will be over and above the operational levy authorized in § 2-229.

Section 2-230. Whenever any county shall have established a county fair under the provisions of §§ 2-221 to 2-231, no money shall be paid by the county to any other society or association maintaining a fair within the county.

Section 2-231. Each appointed county fair board shall cause to be filed with the county board from time to time all claims to be paid from money raised by taxation, and such claims shall be allowed and paid in like manner as general claims against the county.

Sections 2-232 through 2-237.01. Generally provide procedures for the dissolution and/or reformation of an elected county fair board or an appointed county fair board to become a county agricultural society.

Section 2-238. Requires all county fair boards to comply with the Records Management Act found in Neb. Rev. Stat. §§ 84-1408 to 84-1414.

Section 2-239. The budget of each appointed county fair board shall be subject to annual review, audit, and approval by the county board in the county in which such fair board is located. Any elected county fair board shall be subject to the Nebraska Budget Act.

Section 2-240. The vote of a member of a county fair board for any election held within such board shall be cast by the member personally and shall not be cast by a proxy vote.

CHAPTER II

TAX SUPPORT FOR COUNTY AGRICULTURAL SOCIETIES AND COUNTY FAIR BOARDS

II.

TAX SUPPORT FOR COUNTY AGRICULTURAL SOCIETIES AND COUNTY FAIR BOARDS

A. Introduction.

Agricultural societies and elected county fair boards are entitled to request tax support and a levy on the property in the county in order to fund two separate portions of the county fair annual budget. The operational levy shall be used for purposes of paying premiums and for permanent improvements for such fair for the purpose of purchasing the necessary fair supplies, advertising, and the paying of necessary labor in connection therewith, and for other necessary expenses for the operation of the fair.

Pursuant to a request by a county agricultural society or an elected county fair board, the county board of any county may levy an additional levy of up to 3 1/2 cents per \$100 valuation for the purpose of acquiring an interest in real property to comprise a portion or all of the county fairgrounds or for the purpose of capital construction on, renovation, repair, improvement, and maintenance of the county fairgrounds. This levy is over and above the operational tax levy. Such levy shall not exceed the amount actually required for such acquisition or maintenance and shall be subject to the limitations imposed in Neb. Rev. Stat. §§ 77-3442 and 77-3443.

B. Tax Support for County Fair Boards.

Each county board has total tax levy authority of 50 cents per \$100 of taxable valuation of property in the county. Up to 30 cents of that authority is allocated to pay for county governmental operations, including the appointed county fair board, if the county has established an appointed county fair board under Neb. Rev. Stat. §§ 2-221 to 2-231. The operational levy for the appointed county fair board, as well as the capital construction, maintenance, and repair levy, is to be taken from within this 30-cent tax levy authority held by the county board. The operational levy, as well as the capital construction, renovation, repair, and maintenance levy, are each limited to up to 3 1/2 cents per \$100 taxable valuation of property in the county. (See Neb. Rev. Stat. § 77-3442.)

C. Tax Support for County Agricultural Societies and Elected County Fair Boards.

As referenced above, each county board has tax levy authority of up to 50 cents per \$100 of taxable valuation of property in the county. The county board may allocate up to 15 cents of that tax levy authority for support of "other political subdivisions" in the county, including the agricultural society or elected county fair board. The same levy limitations apply to tax levies supporting agricultural societies or elected county fair boards. Therefore, up to 3 1/2 cents for the operational levy and up to 3 1/2 cents for capital, construction, renovation, repair, and maintenance. (See Neb. Rev. Stat. § 77-3443.)

D. Lid Limitations.

See Chapter IV for an explanation of the additional limitation imposed by the Nebraska Budget Act in computing the annual increase in tax levy allowable for county agricultural societies, as well as county fair boards.

CHAPTER III

NEBRASKA BUDGET ACT

III.

NEBRASKA BUDGET ACT

A. Introduction.

The Nebraska Budget Act, Neb. Rev. Stat. §§ 13-501 through 13-513, sets out procedures to be followed by various political subdivisions in the preparation of their annual budget. The Nebraska Budget Act applies to agricultural societies, as well as elected county fair boards, but does not apply to appointed county fair boards, which under Neb. Rev. Stat. § 2-229 must, during the month of November of each year, submit to the county board an estimate of funds necessary for the county fair in the ensuing year. Even so, counties adopting county fair board provisions will require information from the county fair board during July and August pursuant to the Nebraska Budget Act.

B. Definition of Terms.

The Nebraska Budget Act defines various terms including:

1. Governing Body. Various political subdivisions, including the board of directors of an agricultural society and an elected county fair board.

2. Levying Board. Any governing body which has the power and duty to levy a tax, i.e., the county board.

3. Fiscal Year. A 12-month period used in financial planning. Note that the agricultural society can adopt whatever fiscal year it deems appropriate for its needs. It is advisable to coordinate this decision with your accountant.

4. Public Funds. All money, including non-tax money, used in the operation of the governing body. (Note that as this applies to county agricultural societies or county fair boards, it means all income generated in the operation of the county fair and related activities, such as rental income. It is not limited to funds received as the result of the tax levy.) *See* Neb. Rev. Stat. § 13-503.

C. Budget Statement.

Each year the board of directors of an agricultural society or elected county fair board shall prepare and file with its own secretary a proposed budget statement containing information as required on forms prescribed by the Nebraska State Auditor. Budget forms may be obtained from the county clerk. *See* Neb. Rev. Stat. §§ 13-504 and 13-505.

D. Budget Hearing and Budget Adoption.

After preparation of the proposed budget statement, the board of directors of the agricultural society or elected county fair board shall hold a public hearing on the proposed budget. Notice of the time and place of such hearing, together with a summary of the proposed budget statement, shall be published at least five days prior to the date set for hearing in a newspaper of general circulation in the county. When the total operating budget, not including reserves, does not exceed \$10,000 per year, the proposed budget summary may be posted at the governing body's principal headquarters in lieu of published notice. Principal headquarters may include the fairgrounds or the regular meeting place of the fair board.

The purpose of the budget hearing is to receive public comment and adopt a proposed budget. The board of directors of the fair board has discretion to adopt the budget as published or to amend the budget before adoption thereof. If amendments are made to the budget, a summary of such changes shall be published within twenty days after its adoption. The notice of amended budget shall set forth the reasons for the changes.

E. Budget to be Filed with County Board.

After publication and hearing, the agricultural society or elected county fair board shall file and certify to the county board a copy of the adopted budget statement, together with the amount of tax required to fund the adopted budget setting out separately (a) the amount to be levied for the payment of principal and interest on bonds issued by the governing body and (b) the amount to be levied for all other purposes. This adopted budget statement must be filed on or before September 20th with the county board, as well as with the Nebraska State Auditor's office. Proof of publication shall be attached to the adopted budget statement.

F. County Assessor to Certify Taxable Value.

In preparing the annual budget, the agricultural society's use of the taxable value of property in the county subject to the applicable levy is useful in computing the amount of tax funds available. Under § 13-509, the county assessor must, on or before August 20th, certify to the agricultural society's board the amount of current taxable value of the taxable property subject to the applicable levy. (*See Chapter 2, Tax Support for the Agricultural Society.*)

G. Emergency Transfer of Funds, Violation and Penalty.

If it becomes apparent to the board of directors of an agricultural society or elected county fair board, that due to unforeseen emergencies there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the board of directors may, by majority vote, transfer money from other funds to such fund. No expenditure during any fiscal year shall be made in excess of the amounts indicated in the adopted budget statement unless procedures are followed to revise an adopted budget statement as provided in Neb. Rev. Stat. § 13-511 or by other applicable state law. Any officer of any governing body who obligates funds contrary to the provisions of this section shall be guilty of a Class V misdemeanor.

H. Revising an Adopted Budget Statement.

Whenever during the current fiscal year it becomes apparent to the board of directors of an agricultural society or elected county fair board that (a) there are circumstances which could not have reasonably been anticipated at the time of the adoption of the budget, (b) the budget as adopted violated the Nebraska Budget Limitation Act (Lid Law), or (c) the state auditor has advised of mathematical or accounting errors or noncompliance with the Nebraska Budget Act, then in such event, the board of directors may propose to revise the previously adopted budget statement and shall conduct a public hearing on such proposal.

Notice of the time and place of the hearing shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the county. Such published notice shall set forth the time and place of the hearing, the amount of dollars of additional or reduced money required, a statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year to meet the additional money in that manner, a copy of the summary of the originally adopted budget and a copy of the summary of the proposed revised budget. At such hearing, any taxpayer may appear or file a written statement protesting any application for additional money. A written record shall be kept of all such hearings. Upon conclusion of the public hearing on the proposed revised budget and approval of the same, the governing body shall file a copy of the revised budget with the county clerk, as well as the state auditor.

Note, however, a budget duly adopted may be revised within 30 days after notification of an error by the auditor that the budget contains a clerical, mathematical, or accounting error that does not affect the total amount budgeted by more than 1% or increase the amount required for property taxes. In this instance, no public hearing shall be required. However, a corrected budget statement shall be filed with the county clerk and the state auditor's officer.

CHAPTER IV

LIMITATION ON ANNUAL BUDGETS AND PROPERTY TAXES

IV.

LIMITATION ON ANNUAL BUDGETS AND PROPERTY TAXES

Neb. Rev. Stat. §§ 13-518 to 13-520

A. Introduction.

Nebraska law restricts all political subdivisions from increasing their annual budget by any amount more than the previous year's annual budget. The statutes which impose this restriction are sometimes collectively referred to as the "Lid Law."

B. Terms Defined.

The terms defined under the Lid Law include the following:

1. Allowable Growth. Allowable Growth means the percentage increase in taxable valuation in excess of the base limitation rate of 2.5% annually. The Nebraska Legislature has reserved the right to adjust the base limitation rate annually. Check with your County Treasurer as to the allowable growth percentage.

2. Capital Improvements. Capital Improvements are defined as the acquisition of real property or acquisition, construction, or extension of real estate improvements.

3. Governing Body. Governing Body means, for the purpose of the Nebraska Budget Act, the board of directors of any agricultural society or any elected county fair board.

4. Governmental Unit. Governmental Unit means any political subdivision which has authority to levy tax or authority to request the levy of tax. County agricultural societies and elected county fair boards have authority to request the county board to levy tax.

5. Qualified Sinking Fund. Qualified Sinking Fund means the funds maintained separately from the general fund to pay for replacement of tangible personal property having a useful life of five years or more.

6. Restricted Funds. Restricted Funds generally includes property tax. See Neb. Rev. Stat. § 13-518 for a full explanation of the term "Restricted Funds."

C. Budget Limitation.

1. Lid Law. The Nebraska Lid Law prohibits a governmental unit from adopting a budget calling for the expenditure of "restricted funds" more than the prior year's

total of budgeted restricted funds plus “allowable growth” plus the base limitation rate of 2.5%.

2. Additional One Percent. A governmental unit may exceed the base limitation rate by an additional 1% (making a total of 3.5% increase) upon the affirmative vote of at least 75% of the governing body.

3. Special Election Procedures. A governmental unit may also exceed the limitation set forth in (1) and (2) above, if approved at a special election called for such purpose, and upon recommendation of the governing body or upon a petition signed by at least 5% of the voters residing in the governmental unit and filed with the county clerk or election commissioner.

4. Town Hall Meeting. In lieu of the election procedures, any governmental unit may exceed the allowable growth percentage limitation set forth above by any amount approved by a majority of legal voters voting in a meeting of the residents of the governmental unit called after not less than a twenty day advance published notice. At least 10% of the registered voters residing in the governmental unit shall constitute a quorum for purposes of taking action to exceed the allowable growth percentage.

D. The Budget Limitations Do Not Apply To:

1. Restricted funds budgeted for capital construction;
2. Restricted funds expended from a qualified sinking fund;
3. Restricted funds pledged to retire airport authority bonds;
4. Restricted funds budgeted in support of an independent joint entity or a joint public agency;
5. Restricted funds budgeted for repairs to infrastructure damaged by a natural disaster as declared pursuant to the Federal Emergency Management Act;
6. Restricted funds budgeted to pay certain judgments entered against a governmental unit; and
7. Restricted funds budgeted by a natural resource district for certain ground water management activities.

E. Published Notice.

See Form 2 prepared by the Nebraska State Auditor for use in publishing notice of your annual budget hearing.

CHAPTER V
LIQUOR CONTROL

V.

LIQUOR CONTROL

Depending on the unique circumstances of your county fair, it may be advisable for your agricultural society or elected county fair board to either hold a liquor license, utilize an outside vender with a caterer's license or secure a Special Designated License.

Because liquor laws and regulations often change, no attempt will be made in the Nebraska Manual for County Fairs to provide detailed information regarding liquor licensing and enforcement. Instead, please visit the Nebraska Liquor Control Commission website at www.lcc.ne.gov. At this website, you will find complete and easy to understand forms and descriptions regarding Nebraska's liquor licensing laws and regulations.

Contact Information:

Nebraska Liquor Control Commission
301 Centennial Mall South
P.O. Box 95046
Lincoln, NE 68509-5046

Telephone: (402)471-2571
Fax: (402)471-2814

CHAPTER VI
LEASING FAIR FACILITIES

VI.

LEASING FAIR FACILITIES

A. Introduction.

Making fairground buildings available for community or group activities can serve an important public service, while providing an agricultural society or county fair board with additional off-season revenue. In addition, rental for group activities and/or seasonal storage provides better utilization of the buildings if proper control and management is provided.

Control and management of fairground buildings by leasing to third parties is best accomplished through the use of written lease agreements spelling out the rights and obligations of the lessor (agricultural society or fair board) and lessee (group or individual renting the facility).

B. Leasing Building for Group Activities.

Usually the building most in demand on the fairgrounds is the fair center or activities building. (See Form 2, which is a sample Lease Agreement for short-term use and group activities.) It is recommended that you seek the opinion of your legal counsel for specific modifications before implementing the use of the sample lease form.

Some of the important aspects of leasing facilities include the following:

1. Security Deposit. It is advisable to require a security deposit to be made at the time the lease agreement is signed. The signed lease agreement, along with a security deposit, should be maintained by the fair secretary or his or her designee. Return of the security deposit should be conditioned upon inspection by county fair personnel to assure proper cleanup and absence of physical damage. The agricultural society board may want to consider adjusting the security deposit depending on the type of function and the number of those in attendance.

2. Liability Insurance. Various forms of liability insurance are available to protect the agricultural society against damage claims for personal injury. The agricultural society should, without exception, maintain a general liability policy which covers the risk of loss due to injury on the fairgrounds regardless of who is sponsoring an event. In addition, note that the sample lease agreement requires the lessee to provide a certificate of insurance. This form is generally obtained directly from the insurance company or insurance agent and verifies that the lessee carries the proper amount of insurance and that the agricultural society is named as an additional insured for any losses arising out of the planned event. It is possible that the liability insurance policies maintained by the lessee for their own home or business will provide insurance coverage for separate events. Not all insurance coverage is the same, however, and it is advisable to check with the insurance agent for the fair, as well as the insurance agent for the lessee.

3. Alcoholic Beverages. If alcohol is to be served, and the event is open to the public, a liquor license is required. There are strict rules regarding liquor licensing and caution should be exercised if the lessee claims an event is private and not open to the public. Check with the Nebraska Liquor Control Commission for detailed liquor licensing requirements. It is often advisable to encourage, if not require, that the lessee arrange for a local liquor licensee (catering business, restaurant, or bar owner) to serve the alcohol.

4. Security Services. Depending upon the size and type of the function, it may be advisable to require a County Sheriff's Deputy or a private security officer to be present during the function held on county fair property. The agricultural society or county fair board should hire security; this assures property level of security and responsibility.

C. Leasing for Storage.

The same considerations regarding liability, as well as casualty or property, insurance apply to storage leasing. It is important that the lessee provide proof of insurance and name the agricultural society or county fair board as an additional insured to protect the agricultural society from any claim of liability for loss or damage of stored property. (See Form 3, which is a sample Storage Lease Agreement for use in renting out county fair facilities for seasonal and/or long-term storage.)

CHAPTER VII

NEBRASKA OPEN MEETINGS ACT

VII.

NEBRASKA OPEN MEETINGS ACT

Neb. Rev. Stat. § 84-1408 provides as follows:

It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.

Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of the State of Nebraska, federal statutes, and the Open Meetings Act.

A. Public Body.

Public body is defined by Nebraska's Open Meetings Act very broadly to include "instrumentalities exercising essentially public functions." The Nebraska Supreme Court has ruled that Nebraska public meetings law is applicable to "public bodies" and an agricultural society is a public body subject to the provisions of the public meeting law. *See Nixon v. Madison County Agricultural Society*, 217 Neb. 37, 348 N.W.2d 119 (1984). In addition, county fair boards are subject to the Nebraska Open Meetings Act by reason of the fact that a county fair board is within the structure of county government itself.

The Open Meetings Act defines "meeting" to mean all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body. Neb. Rev. Stat. § 84-1409. Committee meetings with less than the number of agricultural society or fair board members necessary to make up a quorum would not fall within the meaning of a "meeting."

B. Closed Session.

From time to time it is advisable for a public body, such as an agricultural society, to go into closed or "executive" session. Executive session is proper when it is clearly necessary for the protection of the public interest or to avoid needless injury to the reputation of an individual, but only if such person has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close.

Matters properly taken up at executive session include: (1) strategy session with regard to real estate purchase or pending or imminent litigation; (2) deployment of security personnel or devises; (3) investigative proceedings regarding allegations of criminal misconduct; and (4) evaluation of job performance, unless the person being evaluated requests a public meeting. Neb. Rev. Stat. § 84-1410.

Procedure for going into a closed session is as follows: (1) the vote to hold closed session shall be taken in open session; (2) the entire motion, the vote of each member on the question of holding closed session, and the time when closed session commenced and concluded shall be recorded in the minutes; (3) the public body holding such a closed session shall restrict its consideration of matters during the closed portion to only those purposes set forth in the motion for the closed session; and (4) the meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order or ordinance or formation of position or policy, but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed or executive sessions. Neb. Rev. Stat. § 84-1410(2).

Any member of the public body (board) shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reasons stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (1) the protection of the public interest or (2) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes. Neb. Rev. Stat. § 84-1410(3).

Neb. Rev. Stat. § 84-1410 provides that nothing in the section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body. No public body shall designate itself as a subcommittee for purposes of circumventing the Open Meetings Act. This section also provides that the Nebraska Open Meetings Act shall not apply to chance meetings or attendance at or travel to conventions or workshops of members of a public body, at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

It is important to remember that Neb. Rev. Stat. § 84-1410 applies to the annual convention of the Nebraska Association of Fair Managers. It is often the case that decisions regarding entertainment or other aspects of the county fair are discussed and voted upon at the annual convention by each county fair board or county agricultural society board. The better procedure would be for the board of directors to authorize an officer or committee to negotiate entertainment contracts following discussion (but no vote) with other board members in attendance at the annual convention. The resolution authorizing the officer or committee to negotiate should also require ratification of the decisions reached or contracts made at the next regular board meeting following the annual convention of the NAFM.

C. Notice Requirements.

Nebraska's Open Meetings Act (Neb. Rev. Stat § 84-1411) requires public bodies to give reasonable advance publicized notice of the time and place of each meeting by a method designated by the public body and recorded in its minutes. Reasonable advance publicized notice should be that notice reasonably calculated to give notice to the public and usually includes publication, posting, or mailing notice. There is no specific time frame in state law

regulating how far in advance notice must be given. It is important that the constitution and bylaws set out the method and timing of prior notice of meetings. A good standard to follow would be published notice in a newspaper of general circulation not less than one week prior to any meeting.

Such notice shall be transmitted to all members of the public body's board of directors and to the public. The same requirements apply to the annual meeting of the registered voters in the case of a county agricultural society or elected county fair board. *See* Neb. Rev. Stat. § 2-253 which requires at least five days advance published notice in a newspaper of general circulation in the county. Such notice of board meetings or membership meetings shall contain an agenda of the subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours before the scheduled commencement of the board of directors or membership meeting. The agricultural society board or county fair board shall have the right to modify the agenda to include items of an emergency nature only at and during the board meeting.

The secretary of the agricultural society board or county fair board shall maintain a list of news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

D. Emergency Meetings Neb. Rev. Stat. §84-1411(5).

At such times as is necessary to hold an emergency meeting without reasonable advance publicized notice, the nature of the emergency shall be stated in the minutes and any formal action taken at such meeting shall pertain only to the emergency. An emergency meeting may be held by means of electronic or telecommunication equipment. The requirements of advising news media apply to emergency meetings as well. Complete minutes of any emergency meetings, specifying the nature of the emergency and any formal action taken at the meeting, shall be made available to the public no later than the end of the next regular business day.

E. Post a Copy of the Open Meetings Act.

Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

F. Rights to Attend Public Meeting.

Nebraska's Open Meetings Act guarantees the right of the public to attend and speak at meetings of public bodies such as agricultural societies. This applies at all regular or special meetings of the board of directors, except those which may be closed for an executive session. In addition, the public has the right to videotape, televise, photograph, broadcast, or record any

public meeting. It is, however, not a violation of this statute for the board of directors to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking, videotaping, televising, photographing, broadcasting, or recording its meetings. A public body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings. Neb. Rev. Stat. § 84-1412.

No public body shall require members of the public to identify themselves as a condition for admission to the meeting. The body may require any member of the public desiring to address the body to identify himself or herself.

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

G. Minutes and Roll Call Vote.

As a public body, the agricultural society or county fair board shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed. It is important to emphasize that any and all actions taken on any question or motion duly moved and seconded shall be made by roll call vote of the board of directors in open session. The record (minutes) shall state how each member voted or if a member was absent or not voting. It is permissible to hold secret ballot for the vote and election of leadership or officers for the board of directors, but the total number of votes for each candidate shall be recorded in the minutes. The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public record and open to public inspection during normal business hours. Neb. Rev. Stat. § 84-1413.

H. Formal Action Voided by the District Court.

Nebraska's Open Meetings Act provides the district court with jurisdiction to void any formal action taken by a public body if suit is brought within one year following the date of the formal action in question. If formal action of the board of directors is challenged, legal counsel should be sought regarding the rights and remedies of the agricultural society. Neb. Rev. Stat. § 84-1414.

CHAPTER VIII

RECREATIONAL LIABILITY CLAIMS

VIII.

RECREATIONAL LIABILITY CLAIMS

County agricultural societies and county fair boards have historically enjoyed a certain level of limited liability from personal injury claims arising from activities carried on at the county fairgrounds.

The Nebraska Supreme Court struck down the claim of immunity asserted by the Scotts Bluff County Agricultural Society in the case of *Dykes v. Scotts Bluff County Agricultural Society*, 260 Neb. 375, 617 N.W.2d 817 (2000).

The Court in the *Dykes* case narrowly interpreted the application of the Nebraska Recreational Liability Act. Specifically, the Court closely interpreted the term “recreational purpose” by holding that an injury sustained while viewing a livestock exhibit at the county fair did not fall within a “recreational purpose.” It did not afford the county agricultural society liability protection.

Even though “recreational purpose” has been interpreted to include viewing scientific sites and nature studies, the Court held to its strict interpretation as it related to viewing a livestock exhibit at the county fair.

Two justices in the *Dykes* case dissented by noting that the farm animals viewed by the plaintiff were produced and exhibited by persons engaged in agriculture. The dissenting opinion went on to note that agriculture is defined in Webster’s Dictionary as the “science or art of cultivating land in raising crops, tillage, husbandry, and farming.”

In 2007, the Nebraska Unicameral offered relief and restored liability protection to county fairs. The issue before the Legislature related to skateboarders and municipal park lands. LB 564 was passed, signed by Governor Heineman and took effect May 16, 2007. Neb. Rev. Stat. § 13-910 (the Nebraska Political Subdivision Tort Claims Act) was amended to shield political subdivisions, including county agricultural societies and county fairs, from tort claims arising from “any claim relating to recreational activities for which no fee is charged (i) resulting from the inherent risk of the recreational activity, (ii) arising out of a spot or localized defect of the premises unless the spot or localized defect is not corrected by the political subdivision leasing, owning, or in control of the premises within a reasonable time after actual or constructive notice of the spot or localized defect, or (iii) arising out of the design of a skatepark or bicycle motocross park constructed for purposes of skateboarding, inline skating, bicycling, or scootering that was constructed or reconstructed, reasonably and in good faith, in accordance with generally recognized engineering or safety standards or design theories in existence at the time of the construction or reconstruction. For purposes of this subdivision, a political subdivision shall be charged with constructive notice only when the failure to discover the spot or localized defect of the premises is the result of gross negligence.”

Neb. Rev. Stat. § 13-910, as amended, goes on to provide that for purposes of the statute “recreational activities” include, but are not limited to, whether a participant or spectator: hunting, fishing, swimming, boating, camping, picnicking, hiking, walking, running, horseback riding, use of trails, nature study, waterskiing, winter sports, use of playground equipment, biking, roller blading, skateboarding, golfing, athletic contests; visiting, viewing, or enjoying entertainment events, festivals, or historical, archaeological, scenic, or scientific sites; and similar leisure activities.

In addition, with reference to the requirement that no fee be charged, the statute defines “fee” as meaning a fee to participate in or be a spectator at a recreational activity. A fee shall include payment by the claimant to any person or organization other than the political subdivision only to the extent the political subdivision retains control over the premises or the activity. A fee shall not include payment of a fee or charge for parking or a vehicle entry.

In those cases, where a skatepark or bicycle motocross park is maintained, a sign must be posted as follows: “Under Nebraska law, a political subdivision is not liable for an injury to or the death of a participant in recreational activities resulting from the inherent risks of the recreational activities pursuant to section 13-910.”

Equine Liability.

In 1996, the Nebraska Legislature enacted the Equine Liability Act, which now appears as Neb. Rev. Stat. § 25-21,251. The Equine Liability Act provides significant protection to county fairs and agricultural societies which provide facilities to horse owners and riders. The primary purpose of the Equine Liability Act is to provide protection to various persons and entities engaged in sponsoring or conducting equine activities or carrying on a profession related to equestrian events. Under the bill, “equine activity” is defined to include equine shows, fairs, competitions, performances, or parades that involve any and all breeds of equine. Note that equine is defined as a horse, pony, donkey, mule, hinny, or llama. Equine activities also include rodeos, driving, pulling, cutting, English and western performance riding, and western games, as well as evaluating an equine belonging to another whether or not the owner has received some monetary consideration or other thing of value for the use of the equine.

Under the Act, equine activity sponsor includes an individual, group, club, partnership, limited liability company, or corporation, whether for profit or nonprofit, which sponsors, organizes, or provides facilities for an equine activity, but not limited to 4-H clubs or promoters of equine facilities, including fairs and arenas at which the equine activity is held. I interpret this language to include agricultural societies.

Except as limited by the statute, the equine activity sponsor or an equine professional or any other person shall not be liable for an injury to or the death of a participant resulting from the inherent risks of equine activities, and no participant nor participant’s representative shall make any claim against, maintain an action against, or recover from an equine activity sponsor, or equine professional, or any other person for injury, loss, damage, or death of the participant resulting from any of the inherent risks of equine activities.

No protection or limit of liability is afforded to an equine activity sponsor, professional, or other person if the equine activity sponsor, professional, or person failed to reasonably and prudently inspect or maintain the equipment or tack. In addition, an equine activity sponsor, professional, or person who owns, leases, rents, or otherwise is in lawful possession and control of land or facilities upon which a participant sustained injuries, liability can arise because of a dangerous latent condition which was known or should have been known to the equine activity sponsor, professional, or person and for which warning signs were not conspicuously posted. In addition, an equine activity sponsor, professional, or person can be held liable if he, she, or it commits an act or omission which a reasonable, prudent person would not have done or omitted under the same or similar circumstances or which constitutes willful or wanton disregard for the safety of a participant or in which that act or omission was a proximate cause of the injury. In addition, an equine activity sponsor, professional, or person can be held liable if he, she, or it intentionally injures the participant. The foregoing provisions which impose liability for failure to live up to proper standards of care do not raise the level or standard of care which has previously been imposed upon county fairs and agricultural societies.

The Act includes within the definition of “equine professional” a person or entity renting equipment to an equine participant. For those county fairs and agricultural societies which rent out equipment such as livestock panels, gates, or trail equipment, it is recommended that warning signs be posted and maintained as specified in LB 153. The warning recites as follows:

WARNING
UNDER NEBRASKA LAW, AN EQUINE PROFESSIONAL IS NOT
LIABLE FOR AN INJURY TO OR THE DEATH OF A PARTICIPANT IN
EQUINE ACTIVITIES RESULTING FROM THE INHERENT RISKS OF
EQUINE ACTIVITIES, PURSUANT TO NEB. REV. STAT. §§ 25-21, 249-25, 253.

The warning notice signs shall be placed in a clearly visible location on or near stables, corrals, or arenas where equine activities are carried on. The placement of the warning notice signs shall be such that they may be readily seen by participants in equine activities. The warning notice signs specified in this section shall appear on the sign in black letters with each letter a minimum of four inches in height. In addition, every written contract entered into between a county fair or agricultural society providing for rental of equipment to an equine participant shall contain in clearly readable print the warning notice specified in this section.

CHAPTER IX

THE AGRICULTURAL SOCIETY AS A NONPROFIT CORPORATION

IX.

THE AGRICULTURAL SOCIETY AS A NONPROFIT CORPORATION

A. Introduction.

Most of the agricultural societies in Nebraska have been formed as “nonprofit” corporations under the Nebraska Nonprofit Corporation Act. As a nonprofit corporation, no stock ownership is permitted and no part of the income generated from the agricultural society is distributable to its members, directors, or officers. This would not include salaries paid to officers or directors performing as employees of the agricultural society. Article 21, Chapter 19 of the Revised Statutes of Nebraska governs nonprofit corporations. The Nonprofit Corporation Act includes the following definitions:

Not-for-profit corporation shall mean a corporation no part of the income of which is distributable to its members, directors, or officers;

Articles of Incorporation shall include the original articles of incorporation and all amendments thereto, and includes articles of merger;

Bylaws shall mean the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated;

Member shall mean one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws;

Board of directors shall mean the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated.

See Neb. Rev. Stat. § 21-1901.

Any agricultural society not currently incorporated should seriously consider incorporation as a nonprofit corporation. It is very important to regularly review the agricultural society’s corporate documents to be sure that the corporate status has not lapsed. The agricultural society should seek legal counsel whenever taking steps to incorporate, amend its articles of incorporation, or revise other corporate documents such as bylaws.

Corporate records, including articles of incorporation, bylaws, minutes of the board of directors, and minutes of general membership meetings, should be maintained as permanent records of the corporation and agricultural society.

B. Corporate Formation and Administration.

Incorporating an agricultural society as a nonprofit corporation requires the preparation of articles of incorporation which are filed with the Secretary of State and the county clerk. (*See* Form 4 as an example of Articles of Incorporation.)

Notice must be given of incorporation and notice is also required in connection with amendment, merger, consolidation, or voluntary dissolution of all nonprofit corporations. Notice of incorporation, amendment, merger, consolidation, or voluntary dissolution must be published once each week for three consecutive weeks in a legal newspaper of general circulation near the registered office of the corporation. If Articles of Amendment have been adopted, a brief summary of any amendment shall be published in the same manner and for the same period of time as notice of incorporation. Proof of publication of any of the foregoing required notices shall be filed in the office of Secretary of State. In the event any notice required to be given pursuant to this section in the law is not given but is subsequently published for the required time, proof of the publication thereof is filed in the office of Secretary of State.

Form 5 sets out an example of the Bylaws and Constitution for an agricultural society. Tailoring of the specific provisions to meet the needs of each agricultural society is recommended with the assistance of legal counsel.

C. Amending the Articles of Incorporation.

Amendment to the existing articles of incorporation must be made in the following manner:

1. The board of directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of the registered voters of the county.

2. The amendment of the articles shall be executed in duplicate by the corporation, by its president or a vice president and by its secretary or an assistant secretary, and shall set forth:

a. The name of the corporation;

b. The amendment so adopted;

c. Statement setting forth the date of the meeting of the members at which the amendment was adopted, that a quorum was present at the meeting, and that such amendment received at least two-thirds vote of the members present at the meeting, or in the alternative, that such amendment was adopted by consent in writing signed by all members entitled to vote with respect thereto. (*See* Form 6 as an example of the Articles of Amendment to the Articles of Incorporation. As part of the procedure in adopting Articles of Amendment, *See* Form 7 relating to the requisite resolution to be adopted by the board of directors.)

CHAPTER X

**THE NEBRASKA ASSOCIATION
OF FAIR MANAGERS**

X.

THE NEBRASKA ASSOCIATION OF FAIR MANAGERS

A. Introduction.

The Nebraska Association of Fair Managers (NAFM) is an association comprising 90 of the 93 agricultural societies and county fairs across Nebraska. NAFM dates back to 1930 and has provided assistance and guidance to Nebraska's county fairs for more than one-half of a century. In 1985, NAFM was incorporated as a nonprofit corporation formed for the purpose of promoting, encouraging, and fostering the improved management of the county fairs in the various counties in the state of Nebraska. Making up part of this chapter is the Articles of Incorporation, as well as the Constitution and Bylaws, for NAFM.

B. Staff and Management.

As noted in the Articles, as well as the Constitution and Bylaws, NAFM is managed by a board of directors consisting of seven district directors, a president, a vice president, and a secretary-treasurer. The following individuals currently serve on the board of directors for NAFM:

President	Stan Brodine
Vice President	Steve Kruger
Secretary/Treasurer	Ken Killion
Immediate Past President	C. J. Leonard
District 1	Dan Barrett
District 2	Don Maxson
District 3	Chuck Rolf
District 4	Kelly Popp
District 5	Dan Spilinek
District 6	Allan Kreman
District 7	Dennis Miller
Associate Director	Roger Olson
Legal Counsel	Alan M. Wood

C. Annual Convention.

NAFM holds an annual convention during the month of January. Although not required, the NAFM Annual Convention has traditionally been held in Kearney. The convention agenda includes continuing education seminars, table topics, as well as the annual business meeting of the Nebraska Association of Fair Managers.

D. Nebraska State Fair Board.

The Nebraska State Fair Board, formerly known as the State Board of Agriculture, is governed by the statutes appearing in Chapter 2, Article I, of the Nebraska statutes. The seven districts designated under the constitution and bylaws of the Nebraska Association of Fair Managers also is reflected in the constitution and bylaws of the Nebraska State Fair Board for purposes of electing seven of the eleven members of the Nebraska State Fair Board. In odd numbered years, the Nebraska State Fair Board conducts its annual meeting in conjunction with the annual convention of the Nebraska Association of Fair Managers. In even numbered years, the Nebraska State Fair Board meets in Lincoln. Delegates from each county and from each district from across Nebraska vote to fill expired terms or vacancies of those members of the Nebraska State Fair Board serving on a district basis. In addition, four members of the Nebraska State Fair Board are appointed by the Governor and confirmed by the Legislature, two selected to represent the business community of the city of Lincoln, one selected to represent the business community of Omaha and one selected to represent the business community of the state at large. The Nebraska State Fair Board shall annually elect from its membership a chairperson, a vice chair person, a secretary and such other officers, as the Board deems necessary. The officers are elected at the annual meeting and hold office for one year and until their successors are elected and qualified. In addition, the chairperson of the Nebraska Arts Council and the chancellor of the University of Nebraska-Lincoln, or their designees, shall be ex officio members of the Nebraska State Fair Board.

E. International Association of Fairs and Expositions.

NAFM, the Nebraska State Fair, and various agricultural societies and county fairs in Nebraska are members of the International Association of Fairs and Expositions (IAFE). IAFE is an international association of state, county, and local fairs and expositions formed for the purpose of promoting and improving fairs and expositions. IAFE holds an annual convention during the last week of November in Las Vegas, Nevada. The convention provides a wealth of information helpful in managing fairs and expositions. Members of IAFE are also entitled to call upon the resources and library of the IAFE throughout the year.

CHAPTER XI

CONCEALED HANDGUN PERMIT ACT (NEB. REV. STAT. §§ 69-204 TO 69-2447)

XI.

CONCEALED HANDGUN PERMIT ACT (NEB. REV. STAT. §§ 69-204 TO 69-2447)

As of January 3, 2007, Nebraska residents wishing to apply for a Concealed Handgun Permit were able to do so, pursuant to the Concealed Handgun Permit Act (“the Act”). Under the Act, a handgun is any firearm with a barrel of less than sixteen inches or any firearm designed to be held and fired using one hand. A handgun is considered concealed under the Act if it is totally hidden from view.

The Act allows an individual to carry a concealed handgun anywhere in the state of Nebraska, with certain specifically enumerated exceptions. In addition to the specifically enumerated exceptions, the Act allows the person, persons, entity, entities, or employer in control of a premises to prohibit permit holders from carrying a concealed handgun thereon.

A permit holder may carry a concealed handgun anywhere in Nebraska, except the following locations:

- Police Station
- Sheriff’s Office
- Nebraska State Patrol Office
- Detention Facility
- Prison
- Jail
- Courtroom
- Building which Contains a Courtroom
- Polling Place During a Bone Fide Election
- Meeting of a Governing Body of a County, Public School District, Municipality, or other Political Subdivision
- Meeting of the Legislature or any Committee of the Legislature
- Financial Institutions
- Professional or Semi-Professional or Collegiate Athletic Event
- School
- School Ground
- School Owned Vehicle
- School Sponsored Activity
- Athletic Event
- Place of Worship
- Emergency Room
- Trauma Center
- Political Rally or Fundraiser
- Establishment Licensed under the Nebraska Liquor Control Act
- Place Where Possession or Carrying of a Firearm is Prohibited by State or Federal Law

In addition, any place or premises where the person, persons, entity, or entities in control of the property or employer in control of the property has prohibited permit holders from carrying concealed handguns into or onto the place or premises; or into or onto any other place or premises where handguns are prohibited by law or rule or regulation.

It is advisable for the agricultural society or county fair board to adopt a formal resolution with regard to the policy on the fairgrounds regarding the carrying of concealed handguns.

Nebraska law does not mandate any specific requirements regarding notices prohibiting concealed handguns. The Nebraska State Patrol, however, recommends that signs contain a circle, four inches in diameter, with a slash covering a handgun. The sign should also include some text indicating that concealed handguns are prohibited on the premises. The Nebraska State Patrol's recommended language reads as follows: "Carrying a concealed handgun is prohibited in or on this place or premises. Those in control of this property have prohibited permit holders from possessing or carrying a concealed handgun on these premises. Unless otherwise authorized by law, violation of this prohibition is a criminal offense. Posted pursuant to Nebraska Revised Statute § 69-2441." The State Patrol also recommends that signs be placed at eye level, or 54" to 66" from the floor. A recommended format for signs is available on the Nebraska State Patrol's website at http://www.nsp.state.ne.us/Docs/forms/CCW_Sign.pdf. This sign appears as follows:

NOTICE



Carrying a concealed handgun is

PROHIBITED

in or on this place or premises.

Those in control of this property have prohibited permit holders from possessing or carrying a concealed handgun on these premises. Unless otherwise authorized by law, violation of this prohibition is a criminal offense.

Posted Pursuant to the Nebraska Revised Statute §69-2441

SAMPLE FORMS

SHORT-TERM FACILITIES LEASE AGREEMENT

THIS LEASE AGREEMENT is entered into this ____ day of _____, 20____, by and between the _____ County Agricultural Society, hereinafter referred to as "Lessor," and _____, hereinafter referred to as "Lessee."

WITNESSETH:

1. Leased Premises. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the building and facilities known as _____ and located on the _____ County Fairgrounds, _____, Nebraska.

2. Term. The term of this Lease shall commence on the ____ day of _____, 20____, at _____ .m., and shall terminate on the ____ day of _____, 20____, at _____ .m.

3. Rental Payment. The consideration and rental payment payable by Lessee to Lessor shall be in the amount of \$_____, payable in cash or its equivalent, in advance, and at the time of the execution of this Lease Agreement. Lessor hereby acknowledges receipt of the aforementioned rental payment.

4. Use of Leased Premises. Lessee agrees that the use of the leased premises will be devoted exclusively to: _____

5. Security Deposit. Upon the execution of this Lease Agreement, Lessee shall pay to Lessor an additional payment of \$_____ as security for the faithful performance of Lessee's obligations under this Lease Agreement. Under no event shall Lessee be entitled to apply said deposit against rental due hereunder. The security deposit shall not bear interest. The security deposit shall be returned by Lessor to Lessee within forty-eight (48) hours of the termination of this Lease Agreement on the condition that the Lessee has performed all of the Lessee's obligations under this Lease Agreement.

6. Maintenance and Cleanup. The Lessee shall faithfully maintain the occupied and used premises in a clean and safe condition, and upon termination of the tenancy, place the leased premises in at least as clean a condition as existed at the beginning of the term of this Lease Agreement. Lessee agrees to remove from and dispose of all rubbish, garbage, containers, and other waste placed on the premises by Lessee. Lessee agrees to use in a reasonable manner, all electrical, plumbing, sanitary facilities, heating, ventilating, air conditioning, and other facilities and appliances in the leased premises.

This legal form has been prepared to provide general information to assist agricultural societies and county fair boards in administering their daily business affairs. This is not specific legal advice and does not create an attorney/client relationship. Accordingly, it is recommended that you consult with legal counsel prior to taking any action with regard to this legal form.

7. Lessor's Access to Leased Premises. The Lessor and its authorized agents may enter into the leased premises in order to inspect the premises or make necessary repairs to the leased premises.

8. Indemnification. Lessee will indemnify and save Lessor harmless from and against any and all claims, actions, damages, liability, and expense in connection with loss of life, personal injury, and/or damage to property arising from any act or omission of the Lessee.

9. Insurance. Upon the execution of this Lease Agreement, Lessee shall provide Lessor with a certificate of insurance evidencing that Lessee has in full force and effect a comprehensive public liability insurance policy covering the interests of the Lessee and Lessor against liability for any injury arising out of Lessee's use and occupancy of the leased premises in an amount of at least \$_____ for death or personal injury and at least \$_____ per accident for property damage. All insurance shall be written by insurance companies licensed to transact insurance business in Nebraska. All insurance provided under this paragraph shall name the Lessor as an additional insured.

10. Unlawful Activity. Lessee agrees (1) not to use, allow, or permit the leased premises to be used for any unlawful, immoral, or objectionable purpose; (2) not to permit anything to be done which will create a fire hazard; and (3) to comply with all applicable laws, regulations, and directions of governmental authorities.

11. Waiver of Breach. Any waiver, express or implied, by the Lessor of any breach of this Lease Agreement by the Lessee shall not be construed to be a waiver of any subsequent breach of the Lease Agreement, and payment by the Lessee and acceptance by the Lessor of the rental payment shall not be construed to be a waiver of any breach of the terms, conditions, or promises herein.

12. Time of the Essence. It is hereby agreed that time is of the essence to this Lease Agreement.

13. Assignment. Lessee agrees not to sublet any of the premises herein described, nor to assign any of Lessee's interest in the leased premises under the terms of this Lease Agreement to any third party whatsoever.

14. Entire Agreement. This Lease Agreement contains the entire agreement between the parties and can only be amended in writing between the parties hereto, and this agreement shall be binding upon the parties hereto and their heirs, legatees, personal representatives, successors, and assigns.

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IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease Agreement on the date first above written.

_____ COUNTY
AGRICULTURAL SOCIETY, Lessor,

By: _____

_____, Lessee

By: _____

DRAFT

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STORAGE LEASE AGREEMENT

THIS LEASE AGREEMENT made and entered into this _____ day of _____, 20___, by and between _____ County Agricultural Society, hereinafter referred to as "Landlord," and _____, hereinafter referred to as "Tenant."

WITNESSETH:

1. Leased Property. Landlord hereby agrees to lease a storage area having the dimensions of _____ x _____, located in the _____ building located on the _____ County Fairgrounds in _____, Nebraska.

2. Term. The term of this Lease Agreement is _____ (____) months commencing on the _____ day of _____, 20___, and ending on the _____ day of _____, 20___.

3. Rent. The total rent under this Lease Agreement is _____ (\$_____). payable in advance. Provided, in the event Tenant requires additional space for storage, rent shall increase by an additional _____ (\$_____) and shall entitle Tenant to an additional storage area having dimensions of _____ x _____.

4. Restrictions on Use and Access. The storage space herein leased to Tenant shall be used exclusively for Tenant's personal property during the term of this Lease Agreement. In the event Tenant's property includes any motor driven vehicle or other device, Tenant agrees to supply, at Tenant's expense, a suitable mat or floor covering to prevent motor oil or other substances from dropping on the floor of the premises. During the term of this Lease Agreement, Tenant shall not have access to Tenant's property without prior consent from the _____ County Agricultural Society or its authorized agent. In no event shall any property occupying a rental space on the premises exceed 10,000 lbs. in weight.

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5. Liability for Damages. Landlord shall not be liable or responsible to the Tenant, or any other person whomsoever, for any damages to goods, wares, merchandise, or other property in storage on the leased premises, and Tenant agrees to hold Landlord harmless from any and all damages suffered by any act whatsoever beyond the control of Landlord.

6. Insurance. Landlord shall keep in force a policy of insurance on the structure of the building of which the leased premises is a part. Tenant, at Tenant's option, shall maintain insurance on the contents and personal property, goods, and equipment maintained or kept by the Tenant in the leased premises. Neither party hereto shall be obligated to any insurance carrier or the other party by way of subrogation for loss sustained to property covered by said hazard insurance, and by reason thereof, each party hereto does hereby completely, finally, and forever release and discharge the other party from any cause of action which may arise during the term of this Lease on account of damages covered by said hazard insurance.

7. Waiver of Breach. Any waiver, express or implied, by the Landlord of any breach of this Lease Agreement by the Tenant shall not be construed to be a waiver of any subsequent breach of the Lease Agreement, and payment by the Tenant and acceptance by the Landlord of the rent shall not be construed to be a waiver of any breach of the terms, conditions, or promises herein.

8. Removal at End of Term. Tenant hereby covenants and agrees to remove Tenant's personal property within seven (7) days following termination of the lease term. Tenant hereby agrees to pay a surcharge of _____ (\$_____) for any property not removed from the premises by _____, 20____, following termination of the lease term.

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9. Time of the Essence. It is hereby agreed that time is of the essence of this Lease Agreement.

10. Binding on Heirs and Assigns. This Lease Agreement shall be binding upon the parties and their heirs, successors, personal representatives, and assigns.

11. Assignment. Tenant agrees not to sublet any of the premises herein described nor assign any of Tenant's interest in these premises under the terms of this Lease Agreement to any third party without first obtaining written approval from Landlord.

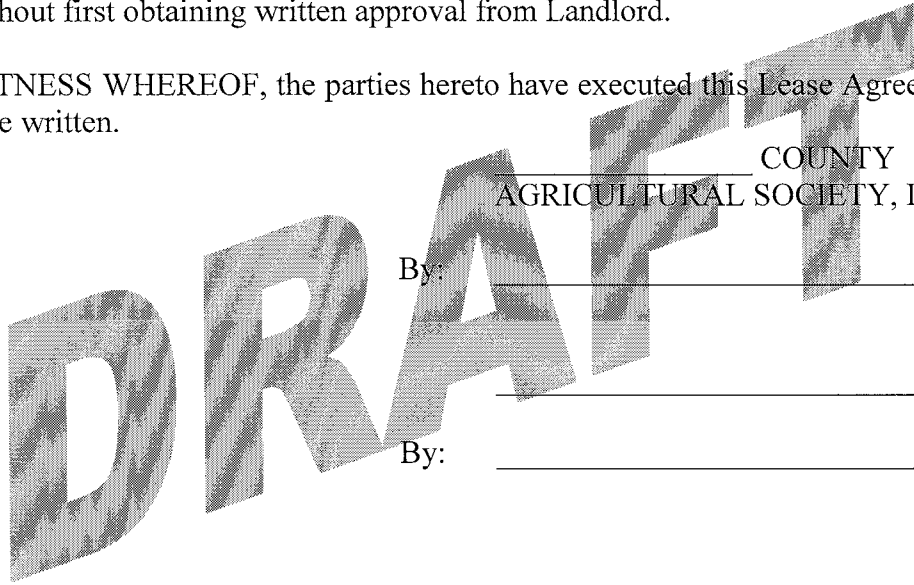
IN WITNESS WHEREOF, the parties hereto have executed this Lease Agreement on the date first above written.

COUNTY
AGRICULTURAL SOCIETY, Landlord

By: _____

_____, Tenant

By: _____



ARTICLES OF INCORPORATION

OF

_____ COUNTY AGRICULTURAL SOCIETY, INC.

The undersigned, acting as the incorporators of a nonprofit corporation under the Nebraska Nonprofit Corporation Act, adopt the following Articles of Incorporation for such corporation:

ARTICLE I. NAME

The name of the corporation shall be: _____ County Agricultural Society, Inc.

ARTICLE II. TYPE OF CORPORATION

This corporation is a public benefit corporation.

ARTICLE III. REGISTERED OFFICE AND REGISTERED AGENT

The street address of the corporation's initial registered office is: _____
and the name of the initial registered agent at such address shall be: _____.

ARTICLE IV. INCORPORATORS

The name and street address of the incorporators are as follows:

<u>Name</u>	<u>Street Address</u>
_____	_____
_____	_____
_____	_____

ARTICLE V. MEMBERS

The corporation shall not have members.

ARTICLE VI. DISSOLUTION

Upon the dissolution of the corporation, the Board of Directors shall, after paying or making provisions for the payment of all of the liabilities of the corporation, distribute all assets of the corporation exclusively to select organizations which are described in Section 509(a)(1) or Section 509(a)(2) of the Internal Revenue Code of 1954, and which at the time of dissolution qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provisions of any future United States Internal Revenue law), and if there are no such organizations so organized, operated and qualified at the time of the dissolution of this corporation, then the assets remaining after paying or making provisions for the payment of liabilities of the corporation shall be distributed exclusively for the purposes of the corporation in such manner, or to such organization or organizations organized and operated exclusively for charitable, educational, religious or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provisions of any future United States Internal Revenue law), and as the Board of Directors shall determine.

ARTICLE VII. BOARD OF DIRECTORS

The names and street addresses of the individuals who are to serve as the initial directors of the corporation are set forth below:

Name

Street Address

ARTICLE VIII. INDEMNIFICATION

Section 1. General.

Each Director, officer, employee *or* agent of the Corporation (or the heirs or legal representatives of such persons), whether or not then a Director, officer, employee, or agent, shall be indemnified by the Corporation against any and all costs and expenses and attorney fees reasonably incurred by or imposed upon him or her in connection with or resulting from any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative in which he or she may become involved, as a party or otherwise by reason of his or her being or at any time having been a Director, officer, employee, or agent of the Corporation, whether or not he or she continues to be such at the time such liability or expense is incurred. Such rights to indemnification shall include all judgments, fines, and

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reasonable amounts paid and expenses incurred in defending, settling, compromising, or otherwise adjusting any such action, suit, or proceeding for the purpose of avoiding further costs of litigation; provided, however, such rights to indemnification for the person claiming such right shall not exist if the conduct of the person claiming the right to be indemnified is finally adjudged to have been knowingly fraudulent, deliberately dishonest, or involving willful misconduct. In the event there is a final adjudication that the person claiming the rights to indemnification was not entitled to be indemnified by the Corporation by reason of the foregoing, the person claiming such rights shall reimburse the Corporation for all costs and expenses and attorney fees reasonably paid by the Corporation in indemnifying the person claiming such rights pursuant to this Article VIII.

Section 2. Reimbursement of Attorney Fees, Costs and Expenses.

In the event any Director, officer, employee, or agent of the Corporation (or the heirs or legal representative of such persons) is required to bring an action to enforce any of his or her rights or to collect monies due under this provision and is successful in such action, the Corporation shall be obligated to reimburse the person claiming the rights to indemnification for his or her reasonable attorney fees and costs and expenses in bringing such action.

Section 3. Rights not Exclusive.

The rights of indemnification provided in this Article VIII shall be in addition to any other rights to which any person (or the heirs or legal representative of such person) referred to in this Article VIII may otherwise be entitled as a matter of law, by agreement, or otherwise, and such rights of indemnification shall continue for and inure to the benefit of and be enforceable by any person who has ceased to be a Director, officer, employee, or agent of the Corporation.

Section 4. Rule of Construction.

Nothing contained in this Article VIII shall be construed to permit or require indemnification of any individual not permitted by Nebraska law.

DATED this _____ day of _____, 20__.

Incorporator

Incorporator

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CONSTITUTION AND BYLAWS

_____ COUNTY AGRICULTURAL SOCIETY, INC.

ARTICLE I. GENERAL OFFICE

The general office of _____ County Agricultural Society shall be at the _____.

ARTICLE II. DELEGATES

Section 1. Registered Voters. This corporation shall have no members. All registered voters of _____ County, Nebraska, are eligible to participate and vote at the annual meeting of the Society for the purpose of electing members of the Board of Directors and vote on such other matters as may be submitted to the registered voters serving as and hereinafter referred to as "delegates" by the Board of Directors or which are required to be submitted to said delegates under the Articles of Incorporation or these Bylaws.

Section 2. Annual Meeting. The annual meeting of the Society shall be held _____ of every year the Society is in existence. Unless otherwise ordered by the Board of Directors, the annual meeting of the Society shall be held in the _____ Building on the _____ County Fairgrounds, _____, Nebraska.

Section 3. Notice. The Board of Directors shall give notice of the annual meeting of the Society in a newspaper of general circulation within the county published once approximately one week before the scheduled annual meeting. The notice shall state the time and place of the annual meeting and shall state that all registered voters of _____ County are eligible to participate and vote at the annual meeting as well as the purpose or purposes for which the meeting shall be called.

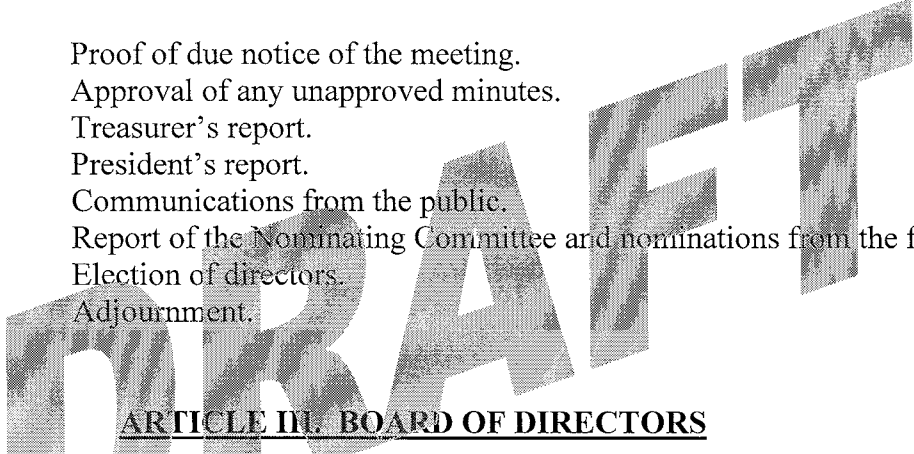
Section 4. Voting. The vote for any election held in connection with the county agricultural society shall be cast personally and not by proxy vote. At the annual meeting of the county agricultural society, all questions upon motions made at the annual meeting shall be determined by a majority of the registered voters voting and the presiding officer shall ascertain and declare the result of the votes upon each question. If the result of a vote is questioned, the presiding officer shall make the vote certain by recount. If any person offering to vote at the annual meeting is challenged as an unqualified voter, the presiding officer shall explain to the person challenged the qualifications of a registered voter. If such person states that he or she is qualified and the challenge is not withdrawn, the person shall take an oath, reduced to writing, in substance as follows: "I do solemnly swear (or affirm) that I am a citizen of the United States,

that I am of the constitutionally prescribed age of an elector or upwards, that I am domiciled in this county, and that I am registered to vote in this county, so help me God.” Every person taking such oath and signing his or her name to it shall be permitted to vote on all questions proposed at the meeting.

Section 5. Quorum. A quorum of the delegates of the Society shall consist of ten persons who are registered voters in the county. A fewer number of delegates shall adjourn the meeting to a future date.

Section 6. Order of Business. The order of business at the annual meeting of the delegates of the Society and, as far as possible, at any and all other meetings thereof, shall be as follows unless otherwise determined by the Board of Directors of the Agricultural Society.

1. Proof of due notice of the meeting.
2. Approval of any unapproved minutes.
3. Treasurer’s report.
4. President’s report.
5. Communications from the public.
6. Report of the Nominating Committee and nominations from the floor.
7. Election of directors.
8. Adjournment.



ARTICLE III. BOARD OF DIRECTORS

Section 1. Management. The management of the Agricultural Society shall be vested in a Board of Directors consisting of _____ members who shall be elected from the county at large. The Board of Directors shall be elected by the delegates of the Agricultural Society at their annual meeting. Those serving on the Board of Directors as of the _____ day of _____, 20____, shall continue in office to serve out the terms for which they were elected. As the office of each elected board member expires, a member shall be elected to serve for a period of three years or until his or her successor is elected and qualified.

Section 2. Regular Meetings. The regular meetings of the Board of Directors of the Agricultural Society shall be held on the _____ of each and every month during the year at the _____, or such other location as is set forth in the call of the meeting, at the hour of _____ p.m., but the Board of Directors may agree on holding their regular meetings at a different time or place. Any irregularities in the notice of the time and place of holding such meeting is waived by the attendance of said members at said meeting.

Section 3. Special Meetings and Notice. Special meetings of the Board of Directors may be called at any time by the president, and in the president’s absence by the secretary, or upon application, in writing, by at least four (4) members of the Board of Directors. Notice shall

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be given by mailing to each member at least five (5) days prior to the date of such meeting a written or printed notice stating the object, time, and place of said meeting, but the members of the Board of Directors may waive such notice or such notice may be waived by the attendance of the members at such meeting, provided a quorum is present at said meeting and reasonable effort was made to contact all members of the Board of Directors.

Section 4. Annual Meeting of the Board of Directors. The Board of Directors of the Agricultural Society shall hold its annual meeting during the month of _____ of every year the Agricultural Society is in existence. The agenda of the annual meeting shall include the election of officers and such other matters as the Board of Directors shall determine.

Section 5. Annual Report. Within ten (10) days following the Annual Meeting of the Board of Directors, the officers of the Agricultural Society shall make a report of the Annual Meeting including the names and addresses of the newly elected officers. Such report shall also contain a summary of the preceding county fair.

Section 6. Notice of Meetings.

(a) The secretary of the Agricultural Society shall give reasonable, advance publicized notice of the time and place of each meeting of the Board of Directors and of the annual meeting of the Agricultural Society by a method designated by the Board of Directors and recorded in its minutes. Such notice shall contain a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the _____ County Courthouse in _____, Nebraska, or by contacting the secretary of the Agricultural Society during normal business hours. Except for items of an emergency nature, the agenda shall not be altered later than twenty-four (24) hours before the scheduled commencement of the meeting. The Board of Directors shall have the right to modify the agenda at any meeting of the Board of Directors to include items of an emergency nature.

(b) The secretary of the Agricultural Society shall maintain a list of the news media requesting notification of meetings of the Agricultural Society or its Board of Directors and shall make reasonable efforts to provide advance notification to said news media of the time and place of each meeting and the subjects to be discussed at that meeting.

(c) When it is necessary to hold an emergency meeting without reasonable, advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by use of electronic or telecommunications equipment. The provisions of subsection (b) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings, specifying the nature of the emergency and any formal action taken at the meeting, shall be available to the public by no later than the end of the next regular business day.

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Section 7. Quorum. _____ members of the Board of Directors shall constitute a quorum to do business.

Section 8. Delegate. The Board of Directors shall elect annually one or more of its members as delegates to attend the annual meeting of the Nebraska Association of Fair Managers.

Section 9. Retaining Professionals. The Board of Directors shall have authority to retain professionals as it deems necessary, including, but not limited to, a certified public accountant and an attorney.

Section 10. Reimbursement of Expenses. The Board of Directors may authorize reimbursement of convention travel, lodging, and meal expenses incurred by the members of the Board of Directors. Mileage shall be reimbursed at such rate as determined by the Board of Directors to compensate for miles actually traveled and for all other expenses directly related to travel and attendance at the convention or meetings of the Board of Directors, but only first upon the filing, with the secretary, of a true and accurate expense voucher with receipt or other satisfactory proof of expenses attached thereto.

Section 11. Resignation. Any director may resign from the Board of Directors at any time by giving written notice to the president or secretary.

ARTICLE IV. OFFICERS

Section 1. Number of Officers. The officers of the Agricultural Society shall consist of the president, vice president, secretary, and treasurer. The offices of secretary and treasurer may, but need not be, held by the same person. Officers shall be elected from the members of the Board of Directors and shall serve for a term of one (1) year.

Section 2. President. The president shall preside at all meetings of the Board of Directors and of the delegates of the Agricultural Society; shall give a good and sufficient surety approved by the Board of Directors; shall sign all certificates, vouchers, contracts, and other documents and instruments of the Agricultural Society; shall make reports to the Board of Directors and members; and shall perform such other duties as are incident to the president's office or are properly required of the president by the Board of Directors.

Section 3. Vice President. The vice president of the Agricultural Society shall perform and exercise any and all of the duties and functions of the president in the president's absence or disability, and in all transactions in which the president may be personally interested.

Section 4. Secretary. The secretary shall issue notices for all meetings of the Agricultural Society and meetings of the Board of Directors; shall record and keep all the minutes of the same; shall have charge of all the records, documents, and papers belonging to the Agricultural Society; shall sign, with the president, such documents and instruments as shall require such signature; and shall make such reports and perform such duties as are incident to the secretary's office or properly required of the secretary by the Board of Directors while maintaining direct oversight responsibilities for the records, documents and papers of the Agricultural Society, the secretary, by and through action of the Board of Directors, may delegate the day-to-day responsibilities of the office to an assistant secretary or the managing director of the Agricultural Society.

Section 5. Treasurer. The treasurer shall oversee all financial transactions and matters relating to the corporation and shall be responsible for all funds and securities of the corporation, receive and give receipts for monies due and payable to the corporation from any source whatsoever and deposit all such monies in the name of the corporation in such banks, trust companies or other depositories as shall be selected by the Board of Directors. While maintaining direct oversight responsibilities for the financial matters of the Agricultural Society, the treasurer, by and through action of the Board of Directors, may delegate the day-to-day financial responsibilities of the office to an assistant secretary or the managing director of the Agricultural Society, all in accordance with a resolution duly authorized and adopted by the Board of Directors. If required by the Board of Directors, the treasurer shall give a bond for the faithful discharge of his/her duties in such sum and with such surety or sureties as the Board of Directors shall determine.

Section 6. Auditing Committee. The president shall appoint, from the members of the Board of Directors, a committee of at least three (3) persons to act as the auditing committee. The auditing committee shall review all books, bills, and accounts of the Agricultural Society and make a report to the delegates of the Agricultural Society at the annual meeting.

Section 7. Other Officers. The Board of Directors may appoint one or more assistant secretaries or assistant treasurers to assist in the carrying out of the responsibilities of the office of secretary or treasurer.

Section 8. Resignation. Any officer elected or appointed by the Board of Directors may resign his or her office at any time by providing written notice to the president or secretary.

Section 9. Vacancies. Any vacancy occurring in any office of the Agricultural Society shall be filled by the affirmative vote of a majority of the Board of Directors. An officer elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office.

ARTICLE V. FUNDS

All funds of the Agricultural Society shall be kept in a bank in _____ County, Nebraska, and shall be paid out only upon checks or drafts authorized by the Board of Directors and issued by the president, treasurer or managing director in accordance with this Constitution and Bylaws.

ARTICLE VI. ELECTIONS

All elections of the Agricultural Society shall be by ballot and no person shall be deemed elected until that person shall have received a plurality of the votes cast.

ARTICLE VII. GRIEVANCES

Any person having a grievance against the Agricultural Society shall present the complaint, in writing, to the Secretary not less than five (5) days prior to the regular meeting of the Board of Directors.

ARTICLE VIII. OPEN MEETINGS

All meetings of the Agricultural Society and its Board of Directors shall be held in conformance with the Nebraska Open Meetings Law, Neb. Rev. Stat. § 84-1408 to 84-1414, as amended from time to time.

ARTICLE IX. AMENDMENTS

An amendment to these Bylaws or the adoption of new Bylaws, or any amendment to the Articles of Incorporation, shall be approved by (1) the delegates at the annual meeting of the Society by a majority of the delegates voting at such meeting as to any amendment relating to the number of directors, the composition of the Board of Directors, the term of office of the directors, or the method in which directors are elected; and (2) the Board of Directors by a vote of two-thirds (2/3) of the directors present at an annual, regular, or special meeting in favor thereof if the amendment does not relate to the number of directors, the composition of the Board of Directors, the term of office of the directors, or the method in which directors are elected.

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ARTICLE X. RULES AND REGULATIONS

Section 1. The Board of Directors shall have authority to establish the dates of the annual county fair and to adopt such rules and regulations as it deems necessary and appropriate for the conduct of the _____ County Fair.

Section 2. *Robert's Rules of Order, Latest Edition*, shall be recognized as the authority governing all meetings when not in conflict with the Constitution and Bylaws of the _____ County Agricultural Society, Inc.

IN WITNESS WHEREOF, we have hereunto subscribed our names on this _____ day of _____, 20____.

CERTIFICATE

The undersigned, president of the _____ County Agricultural Society, Inc., hereby certifies that the foregoing Constitution and Bylaws were duly adopted and approved by the Board of Directors for the Agricultural Society on the _____ day of _____, 20____, all pursuant to the Articles of Incorporation and the general laws of the State of Nebraska relating to nonprofit corporations and agricultural societies.

ATTEST:

_____, Secretary

_____, President

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**AMENDED AND RESTATED
ARTICLES OF INCORPORATION**

OF

_____ **COUNTY AGRICULTURAL SOCIETY, INC.**

Pursuant to the provisions of Neb. Rev. Stat. § 21-19, 110 and Neb. Rev. Stat. § 2-252, the _____ County Agricultural Society, Inc., a nonprofit corporation (hereinafter referred to as the "Society"), hereby adopts the following Amended and Restated Articles of Incorporation having been unanimously approved by the Board of Directors on the _____ day of _____, 20___. These Amended and Restated Articles of Incorporation supersede the original Articles of Incorporation and all amendments thereto.

ARTICLE I. NAME

The name of this corporation shall be the _____ County Agricultural Society, Inc.

ARTICLE II. CLASSIFICATION, MEMBERS, AND DURATION

This corporation shall be classified as a public benefit corporation. This corporation shall have no members. The duration of this corporation shall be perpetual.

ARTICLE III. PURPOSES

A. Object and Purposes. The object and purposes of the corporation shall be to provide for the organization, procedure, and financial support of Nebraska citizens who seek (1) to improve segments of the agricultural industry, homes, and communities of the state; and (2) to cooperate with and to supplement and compliment the programs of the Institute of Agriculture and Natural Resources of the University of Nebraska, and other state or local organizations; and (3) to educate the general public and to encourage the improvement in all things pertaining to the interest of the agriculturalist, the mechanic, the merchant, and the citizen of any calling, by aiding such interests that are most conducive to the public good; to that end, this corporation shall have power to acquire, take, hold, and appropriate personal property and so much real estate as may be necessary for the purpose of holding county fairs and to enter into any and all contracts necessary and advisable for the proper execution in carrying into effect the powers and functions of this corporation. Said corporation is organized exclusively for

charitable, religious, educational, and scientific, purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code or the corresponding section of any future federal tax code.

B. Inurement of Income. No part of the net earnings of the corporation shall inure to the benefit or be distributable to its directors, officers, trustees, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered.

C. Legislative or Political Activities. No substantial part of the activities of the corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation and the corporation shall not participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

D. Operational Limitations. Notwithstanding any other provisions of these articles, the corporation shall not carry on any other activities not permitted to be carried on (1) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law) or (2) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law).

E. Dissolution Clause. Upon the dissolution of the corporation, the board of directors shall, after paying or making provisions for the payment of all of the liabilities of the corporation, dispose of all the assets of the corporation exclusively for the purpose of the corporation, in such manner or to such organization or organizations organized and operated exclusively for charitable, educational, religious, or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provisions of any future United States Internal Revenue Law), as the board of directors shall determine. Any such assets not so disposed of shall be disposed of by the District Court of _____ County, Nebraska, or such other county in the state of Nebraska in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations as said court shall determine which are organized and operated exclusively for such purposes.

ARTICLE IV. DELEGATES

This corporation shall have no members. All registered voters of _____ County, Nebraska, shall be considered to be delegates of the Society and are eligible to participate and vote at the annual meeting of the Society for the purpose of electing a board of directors and to

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decide such other matters as may be submitted to the delegates by the board of directors or which are required to be submitted to the delegates by the Articles of Incorporation or the Constitution and Bylaws of the Society.

ARTICLE V. MANAGEMENT

The management of this Society shall be vested in a board of directors consisting of thirteen (13) persons, who shall be elected by the delegates of this Society at their annual meeting of the Society. The term of office for each director shall be as governed by the Constitution and Bylaws of the Society, as amended from time to time.

ARTICLE VI. OFFICERS

The officers of this Society shall be a president, vice president, secretary, treasurer, and such other officers as the board of directors may deem necessary, who shall be elected by the board of directors from its own number. Each of said officers shall hold office for the period of one (1) year or until a successor has been elected and qualified.

ARTICLE VII. BYLAWS

The board of directors of this Society shall adopt a Constitution and Bylaws for the government of this Society, and the Constitution and Bylaws may thereafter be amended (1) by the delegates of the Society at the annual meeting of the Society if the amendment relates to the number of directors, the composition of the board of directors, the term of office of the board of directors, or the method in which the directors are elected, and (2) by the board of directors as to any other matters at any regular or special meeting of the board of directors.

ARTICLE VIII. REGISTERED OFFICE AND REGISTERED AGENT

The street address of the Society's registered office is _____, _____, Nebraska, _____. The name of the Society's registered agent at such address is _____.

This legal form has been prepared to provide general information to assist agricultural societies and county fair boards in administering their daily business affairs. This is not specific legal advice and does not create an attorney/client relationship. Accordingly, it is recommended that you consult with legal counsel prior to taking any action with regard to this legal form.

IN WITNESS WHEREOF, the undersigned president of the _____ County Agricultural Society, Inc., has hereunto subscribed his/her name on this _____ day of _____, 20__.

_____, President

_____ County Agricultural Society

DRAFT

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