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CHAPTER 30: GENERAL PROVISIONS

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COMPENSATION OF OFFICIALS

§ 30.01 MUNICIPAL OFFICIALS; GENERAL.

The compensation of any elective official of the village shall not be increased or diminished during the term for which he or she shall have been elected except when there has been a merger of offices; provided, the compensation of the members of the governing body, a board or commission may be increased or diminished at the beginning of the full term of any member whether or not the terms of one or more members commence and end at different times. No elected official may be rehired at a greater salary if he or she resigns and desires to be rehired during the unexpired term of office. He or she may be rehired after the term of office during which he or she resigned at a greater salary. All salaries shall be set by ordinance of the governing body and will be available for public inspection at the office of the Municipal Clerk.

(1976 Code, § 1-901)

Statutory reference:

Related provisions, see Neb. RS 17-209.02, 17-612

§ 30.02 CONFLICT OF INTEREST.

(A) (1) ***BUSINESS ASSOCIATION*** means a business:

(a) In which the individual is a partner, limited liability company member, director, or officer; or

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(b) In which the individual or a member of the individual's immediate family is a stockholder of closed corporation stock worth \$1,000 or more at fair market value or which represents more than a 5% equity interest or is a stockholder of publicly traded stock worth \$10,000 or more at fair market value or which represents more than 10% equity interest.

(c) An individual who occupies a confidential professional relationship protected by law shall be exempt from this section. This section shall not apply to publicly traded stock under a trading account if the filer reports the name and address of the stockbroker.

(2) **OFFICER** means:

(a) Any member of any board or commission of the village;

(b) Any appointed official if the municipal official:

1. Serves on a board or commission which spends and administers its own funds;

and

2. Is dealing with a contract made by the board or commission; or

(c) Any elected municipal official.

(d) Unless specified otherwise, volunteer firefighters and ambulance drivers shall not be considered **OFFICERS** for purposes of this section, with respect to their duties as firefighters and ambulance drivers.

(B) (1) No officer of the village shall be permitted to benefit from any contract to which the village is a party. The existence of such an interest in any contract shall render the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment thereof with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the county attorney, the village, or any resident within the jurisdiction of the village and shall be brought within one year after the contract is signed or assigned. The decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the village has benefitted thereby.

(2) The prohibition in this section shall apply only when the officer or his or her parent, spouse or child:

(a) Has a business association with the business involved in the contract; or

(b) Will receive a direct pecuniary fee or commission as a result of the contract.

(C) The prohibition of this section does not apply if the contract is an agenda item approved at a board meeting and the interested officer:

(1) Makes a declaration on the record to the governmental body responsible for approving the contract regarding the nature and extent of his or her interest, prior to official consideration of the contract;

(2) Does not vote on the matter of granting the contract, making payments pursuant to the contract, or accepting performance of work under the contract or similar matters relating to the contract, except that if the number of members of the Board declaring an interest in the contract would prevent the Board, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and

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

(D) An officer who:

(1) Has no business association with the business involved in the contract; or

(2) Will not receive a direct pecuniary fee or commission as a result of the contract, shall not be deemed to have an interest within the meaning of this section.

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

(F) If an officer's parent, spouse, or child is an employee of the village, the officer may vote on all issues of the contract which are generally applicable to:

(1) All employees; or

(2) All employees within a classification and do not single out his or her parent, spouse, or child for special action.

(G) If an officer has the power to employ personnel and he or she hires his or her parent, spouse or child, the officer shall disclose the hiring pursuant to divisions (I)(1) through (5) below, except that if the parent, spouse or child is already employed in the position at the time the officer takes office and the position does not change, no disclosure need be made.

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(H) Notwithstanding any other provision of this section, any contract entered into with an interested officer shall be subject to applicable competitive bidding requirements and shall be fair and reasonable to the village.

(I) The Village Clerk shall maintain, separately from other records, a ledger containing the information listed in divisions (1) through (5) below about every contract entered into by the village in which an officer has an interest as specified above for which disclosure is made as provided in divisions (C)(1) through (3) above. The information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include the:

- (1) Names of the contracting parties;
- (2) Nature of the interest of the officer in question;
- (3) Date that the contract was approved by the village;
- (4) Amount of the contract; and
- (5) Basic terms of the contract.

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

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

(L) Any officer who knowingly violates the provisions of Neb. RS 49-14,103.01 through 49-14,103.03, shall be guilty of a Class III misdemeanor. Any officer who negligently violates Neb. RS 49-14,103.01 through 49-14,03.03 shall be guilty of a Class V misdemeanor.

(M) The village may prohibit contracts over a specific dollar amount in which an officer of such body may have an interest.

(N) The village may enact an ordinance exempting from the provisions of this section contracts involving \$100 or less in which an officer of the village may have an interest.

(O) No officer, including volunteer firefighters and ambulance drivers, shall receive any pay or perquisites from the village other than his or her salary. The governing body shall not pay or appropriate

any money or other valuable thing to pay a person who is not an officer for the performance of any act, service or duty, which shall come within the proper scope of the duties of any officer of the village.

Neb. RS 17-611, 18-305 through 18-312, 49-14,103.01 through 49-14,103.06.

(1976 Code, § 1-902) (Ord. 148, passed 6-6-1983; Ord. 169, passed 6-13-1985; Ord. 182, passed 4-7-1986; Ord. 199, passed 8-3-1987; Ord. 496, passed 12-10-2018)

Statutory reference:

Related provisions, see Neb. RS 17-611, 18-305 through 18-312, 49-14,103.01 through 49-14,103.03, 70-624.04

§ 30.03 ELECTED OFFICIALS; COMPENSATION.

The salaries of the elected officials of the village are hereby fixed as follows:

The Chairman and members of the Board of Trustees shall earn \$41.50 per month for attendance at the regular monthly Board meetings. The Board of Trustees may reimburse a Board member for necessary expenses that the member incurs in the performance of official duties.

(Ord. 385, passed 10-10-2011; Ord. 493, passed 4-13-2018)

§ 30.99 PENALTY.

(A) General.

(1) Any person, or any person’s agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24-hours’ of failure to comply with the provisions of this chapter.

(2) (a) Whenever a nuisance exists as defined in this chapter, the village may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(1976 Code, § 1-1101)

(B) Initiative and referendum.

(1) Whoever knowingly or willfully makes a false affidavit or takes a false oath regarding the qualifications of any person to sign petitions under Neb. RS 18-2501 through 18-2531 shall be guilty of a Class 1 misdemeanor with a limit of \$300 on the fine.

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(2) Whoever falsely makes or willfully destroys a petition or any part thereof, or signs a false name thereto, or signs or files any petition knowing the same or any part thereof to be falsely made, or suppresses any petition, or any part thereof, which has been duly filed, pursuant to Neb. RS 18-2501 through 18-2531 shall be guilty of a Class 1 misdemeanor with a limit of \$500 on the fine.

(3) Whoever signs any petition under Neb. RS 18-2501 through 18-2531 knowing that he or she is not a registered voter in the place where the petition is made, aids or abets any other person in doing any of the acts mentioned in this section, bribes or gives or pays any money or thing of value to any person directly or indirectly to induce him or her to sign the petition, or engages in any deceptive practice intended to induce any person to sign a petition, shall be guilty of a Class 1 misdemeanor with a limit of \$300 on the fine.

(4) Any Clerk who willfully refuses to comply with the provisions of Neb. RS 18-2501 through 18-2531 or who willfully causes unreasonable delay in the execution of his or her duties under the sections shall be guilty of a Class 1 misdemeanor but imprisonment shall not be included as part of the punishment.

(1976 Code, § 1-1014)

(Ord. 339, passed 10-9-2000)

Statutory reference:

Related provisions, see Neb. RS 17-207, 17-505, 18-1720, 18-1722, 18-2532 through 18-2535

CHAPTER 31: VILLAGE ORGANIZATIONS

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§ 31.01 STANDING COMMITTEES; GENERAL PROVISIONS.

(A) At the organizational meeting of the Village Board, the Village Chairperson shall appoint members of the standing committees as the Village Board may by ordinance, or resolution, create.

(B) The membership of the standing committees may be changed at any time by the Village Chairperson. The Village Chairperson shall be a member ex officio of each standing committee. The members of the standing committees shall serve a term of office of one year, unless reappointed.

(C) The standing committees shall be appointed or reappointed each year until changed by the governing body:

(1) Streets and Alleys; and

(2) Water and Sewer.

(1976 Code, § 2-101)

§ 31.02 LIBRARY BOARD.

(A) The Library Board shall be appointed or elected. The governing body shall, by ordinance, adopt the manner in which the five members of the Board are to be chosen.

(B) If the members are to be chosen by appointment, the nominated members must receive a majority vote of the governing body. If the members are to be elected, the usual election procedures of the municipality shall be followed. The Board shall consist of five members who shall be residents of the municipality. The members of the Library Board shall serve a four-year term of office as specified by Nebraska Statutes. The Board shall serve without compensation and may be required, at the discretion of the governing body, to give a bond in a sum set by resolution of the governing body, and conditioned upon the faithful performance of its duties.

(C) At the time of the Board's first meeting in July of each year, the Board shall organize by selecting from its number a Chairperson and Secretary. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings, and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. A majority of the Board members shall constitute a quorum for the transaction of business. The Board shall meet at such times as the governing body may designate. Special meetings may be held upon the call of the Chairperson, or any three members of the Board.

(D) The Library Board shall have the power to make and adopt such bylaws, rules, and regulations for its own guidance and for the government of the library and reading room as it may deem expedient, and not inconsistent with Neb. RS 51-201 through 51-219.
(Neb. RS 51-205)

(E) The Library Board shall have exclusive control of expenditures, of all money collected or donated to the credit of the library fund, of the renting and construction of any library building, and the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased or set apart for that purpose.
(Neb. RS 51-207)

(F) The Library Board may erect, lease, or occupy an appropriate building for the use of such a library, and appoint a suitable librarian and assistants, fix the compensation of such appointees, and remove such appointees at the pleasure of the Board. The governing body of the municipality shall approve any personnel administrative or compensation policy or procedure before implementation of such policy or procedure by the Library Board.

(G) The Library Board may establish rules and regulations for the government of the library as may be deemed necessary for its preservation and to maintain its usefulness and its efficiency. The Library Board may fix impose, by general rules, penalties and forfeitures for trespasses upon or injury to the

library grounds, rooms, books or other property, for failure to return any book, or for violation of any bylaw, rule, or regulation. The Board shall have and exercise such power as may be necessary to carry out the spirit and intent of Neb. RS 51-201 through 51-219 in establishing and maintaining the library and reading room.

(Neb. RS 51-211)

(H) The Board shall be responsible for making reports and performing additional duties as the governing body may designate from time to time. No member of the governing body shall serve as a member of the Library Board while serving a term of office as a member of the governing body. No member of the Library Board shall serve in the capacity of both the Chairperson and Secretary of the Board.

(I) The Library Board may purchase or lease grounds, exercise the power of eminent domain, and condemn real estate for the purpose of securing a site for a library building. The procedure to condemn property shall be exercised in the manner set forth in Neb. RS 76-704 through 76-724.

(Neb. RS 51-210)

(1976 Code, § 2-201) (Ord. 137, passed 3-1-1982; Ord. 416, passed 1-7-2013)

Statutory reference:

Related provisions, see Neb. RS 51-202

Cross reference:

Library, see §§ 37.15 through 37.21

§ 31.03 PLANNING COMMISSION.

(A) (1) The Planning Commission shall consist of five regular members who shall represent, insofar as is possible, the different professions or occupations in the village and shall be appointed by the Chairperson, by and with the approval of a majority vote of the members elected to the Board of Trustees. Two of the regular members may be residents of the area over which the municipality is authorized to exercise extraterritorial zoning and subdivision regulations. When there are 200 residents in the area over which the municipality exercises extraterritorial zoning and subdivision regulation, one regular member of the Commission shall be a resident from such area. If it is determined by the Board of Trustees that 200 residents reside in the area subject to extraterritorial zoning or subdivision regulation, and no such resident is a regular member of the Commission, the first available vacancy on the Commission shall be filled by the appointment of such an individual. A number of Commissioners equal to a majority of the number of regular members appointed to the Commission shall constitute a quorum for the transaction of any business. All regular members of the Commission shall serve without compensation. The term of each regular member shall be three years, except that two regular members of the first Commission to be so appointed shall serve for terms of one year, two for terms of two years, and one for terms of three years. All regular members shall hold office until their successors are

appointed. Any member may, after a public hearing before the Board of Trustees, be removed by the Chairperson with the consent of a majority vote of the members elected to the Board of Trustees for inefficiency, neglect of duty or malfeasance in office, or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by the Chairperson.

(2) The Chairperson may, with the approval of a majority vote of the elected members of the Board of Trustees, appoint one alternate member to the Planning Commission. The alternate member shall serve without compensation. The term of the alternate member shall be three years, and he or she shall hold office until his or her successor is appointed and approved. The alternate member may be removed from office in the same manner as a regular member. If the alternate member position becomes vacant other than through the expiration of the term, the vacancy shall be filled for the unexpired portion of the term by the Chairperson with the approval of a majority vote of the elected members of the Board of Trustees. The alternate member may attend any meeting and may serve as a voting and participating member of the Commission at any time when less than the full number of regular Commission members is present and capable of voting.

(3) A regular or alternate member of the Planning Commission may hold any other municipal office except:

(a) Village Board of Trustees Chairperson;

(b) A member of the Board of Trustees of Trustees;

(c) A member of any community redevelopment authority or limited community redevelopment authority created under Neb. RS 18-2102.01; or

(d) A member of any citizen advisory review committee created under Neb. RS 18-2715. (Neb. RS 19-926)

(B) The Commission shall elect its Chairperson from its members and create and fill such other of its offices as it may determine. The term of the Chairperson shall be one year, and he or she shall be eligible for reelection. The Commission shall hold at least one regular meeting in each calendar quarter, except the Board of Trustees may require the Commission to meet more frequently and the Chairperson of the Commission may call for a meeting when necessary to deal with business pending before the Commission. The Commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record.

(Neb. RS 19-927)

(C) No member of the Commission shall serve in the capacity of both the Chairperson and Secretary of the Commission. The Secretary shall keep the full and correct minutes and records of all meetings and file them with the Village Clerk where they shall be available for public inspection during office hours.

(D) The Board of Trustees may provide funds, equipment, and accommodations necessary for the work of the Commission, but the expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the Board of Trustees; and no expenditures nor agreements for expenditures shall be valid in excess amounts.
(Neb. RS 19-928)

(E) (1) (a) Except as provided in Neb. RS 19-930 to 19-933, the Planning Commission shall:

1. Make and adopt plans for the physical development of the village, including any areas outside its boundaries which in the Commission's judgment bear relation to the planning of such village and including a comprehensive development plan as defined by Neb. RS 19-903;

2. Prepare and adopt such implemental means as a capital improvement program, subdivision regulations, building codes, and a zoning ordinance in cooperation with other interested municipal departments; and

3. Consult with and advise public officials and agencies, public utilities, civic organizations, educational institutions, and citizens with relation to the promulgation and implementation of the comprehensive development plan and its implemental programs. The Commission may delegate authority to any such group to conduct studies and make surveys for the Commission, make preliminary reports on its findings, and hold public hearings before submitting its final reports.

(b) The Board of Trustees shall not take final action on matters relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning until it has received the recommendation of the Planning Commission, provided that the Planning Commission shall make its recommendation so that it is received by the Board of Trustees within 60 days after the Commission begins consideration of a matter or within such other number of days as the Board of Trustees has set by ordinance.

(c) A recommendation from the Planning Commission shall not be required for subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights-of-way or easements is involved, and such subdivision complies with the ordinance requirements concerning minimum areas and dimensions of such lots and blocks, if the Board of Trustees has designated, by ordinance, an agent pursuant to Neb. RS 19-916.

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(2) (a) The Commission may, with the consent of the Board of Trustees, in its own name:

1. Make and enter into contracts with public or private bodies;
2. Receive contributions, bequests, gifts, or grant funds from public or private sources;
3. Expend the funds appropriated to it by the municipality;
4. Employ agents and employees; and
5. Acquire, hold, and dispose of property.

(b) The Commission may on its own authority make arrangements consistent with its program, conduct or sponsor special studies or planning work for any public body or appropriate agency, receive grants, remuneration, or reimbursement for such studies or work, and at its public hearings, summon witnesses, administer oaths, and compel the giving of testimony.

(3) (a) The Commission may grant conditional uses or special exceptions to property owners for the use of their property if the Board of Trustees has, through a zoning ordinance or special ordinance, generally authorized the Commission to exercise such powers and has approved the standards and procedures adopted by the Commission for equitably and judiciously granting such conditional uses or special exceptions. The granting of a conditional use permit or special exception shall only allow property owners to put their property to a special use if it is among those uses specifically identified in the zoning ordinance as classifications of uses which may require special conditions or requirements to be met by the owners before a use permit or building permit is authorized.

(b) The power to grant conditional uses or special exceptions shall be the exclusive authority of the Commission, except that the Board of Trustees may choose to retain for itself the power to grant conditional uses or special exceptions for those classifications of uses specified in the zoning ordinance. The Board of Trustees may exercise such power if it has formally adopted standards and procedures for granting such conditional uses or special exceptions in a manner that is equitable and will promote the public interest.

(c) An appeal of a decision by the Commission or Board of Trustees regarding a conditional use or special exception shall be made to the District Court.

(Neb. RS 19-929)

(1976 Code, § 2-202) (Ord. 106, passed 12-4-1978; Ord. 487, passed 5-14-2018)

Statutory reference:

Related provisions, see Neb. RS 18-1306

§ 31.04 BOARD OF HEALTH.

(A) The governing body shall appoint a Board of Health which shall consist of three members. The members of the Board shall include the Chairperson of the Board of Trustees, who shall serve as Chairperson and two other members. One member shall be a physician or health care provider, if one can be found who is willing to serve. The physician or health care provider, if appointed, shall be the Board's medical advisor. If the governing body has appointed a Village Marshal, the Village Marshal may be appointed to the Board as Secretary and quarantine officer. The members of the Board shall serve, without compensation, a one-year term of office, unless reappointed and unless removed by the Chairperson of the Board of Trustees with the advice and consent of the Trustees. The members of the Board shall reorganize at the first meeting in December of each year. No member of the Board of Health shall hold more than one Board of Health position.

(B) The Secretary shall keep full and correct minutes and records of all meetings and file the same with the Municipal Clerk where they shall be available for public inspection during office hours. The Board of Health shall be funded by the governing body from time to time out of the General Fund. A

majority of the Board shall constitute a quorum for the purpose of doing business. The Board shall meet at such times as the governing body may designate. Special meetings may be held upon the call of the Chairperson, or any two members of the Board.

(C) The Board shall enact rules and regulations, which shall have the full force and effect of law, to safeguard the health of the people of the municipality. The Board shall enforce the rules and regulations and provide fines and punishments for any violations thereof. It may regulate, suppress and prevent the occurrence of nuisances and enforce all laws of the state and ordinances of the municipality relating to nuisances and to matters of sanitation which affect the health and safety of the people. The Board shall regularly inspect the premises and businesses as the governing body may direct. All members of the Board shall be responsible for making reports and performing other duties as the governing body may, from time to time, designate.

(1976 Code, § 2-203) (Ord. 304, passed 3-9-1998)

Statutory reference:

Related provisions, see Neb. RS 17-208

§ 31.05 CEMETERY BOARD.

(A) The governing body shall appoint the Cemetery Board which shall consist of six members who are residents of the municipality and who shall serve without compensation for a term of three years. Two members shall be appointed each year and may be required in the discretion of the governing body, to give a bond in a sum set by resolution of the governing body, and conditioned upon the faithful performance of their duties.

(B) At the first meeting in June of each year, the Board shall organize by selecting from its membership a Chairperson and Secretary. The Secretary shall keep the full and correct minutes and records of all meetings and file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. A majority of the Board members shall constitute a quorum for the purpose of doing business. The Board shall meet at such times as the governing body may designate. Special meetings may be held upon the call of the Chairperson or any three members of the Board.

(C) The Board shall have the general care, management and supervision of the municipal cemetery with the power and authority to limit and regulate the number of cemetery lots that may be owned by the same person; to prescribe rules for enclosing, adorning and erecting monuments and tombstones on cemetery lots; and to prohibit any diverse or improper use thereof; provided, no religious tests shall be made as to the ownership of lots, the burial therein, and the ornamentation of graves.

(D) The Board shall pass rules and regulations for the proper use of the cemetery and prescribe penalties and fines for violations thereof. The Board shall use all revenue received from the sale of lots, gifts or by devise for the care, management and administration of the cemetery.

(E) All actions of the Board shall be subject to the review and supervision of the governing body and it shall be responsible for making reports and performing additional duties as the governing body may designate. No member of the governing body shall serve as a member of the Board while serving a term of office as a member of the governing body. No member of the Cemetery Board shall hold more than one Cemetery Board office.

(1976 Code, § 2-204)

Statutory reference:

Related provisions, see Neb. RS 12-401 through 12-403

§ 31.06 JOINT HOUSING AUTHORITY.

(A) *General.*

(1) Any two or more cities, villages or counties, or any combination thereof, may, by resolution of their separate governing bodies, determine that there is a need for a Joint Housing Authority to provide decent, safe and sanitary housing for persons of low income living in a multi-jurisdictional area, and that this need would be more efficiently served by the establishment of the Joint Housing Authority. The Joint Housing Authority shall have perpetual existence; except that any city, village or county, as the case may be, may withdraw from participation in the Joint Housing Authority by resolution of its governing body only under the conditions set out in state law.

(2) The area of operation of the Joint Housing Authority would be an area equivalent to the total areas of operation which the housing authorities, if created separately by the cities, villages or counties establishing the Joint Authority would have. The creation of subsequent housing authorities shall not affect the area of operation or territorial jurisdiction of any existing housing authority.

(3) Whenever a Joint Housing Authority is created, it shall bear the name as the political subdivision or subdivisions creating it shall choose, and the name shall include the words Joint Housing Authority.

(4) When it is determined by resolution of the governing bodies of two or more cities, villages or counties, or any combination thereof, that it is expedient to create a Joint Housing Authority and to participate therein, the governing bodies shall appoint persons who shall be residents of the area of operations of the Authority and who shall constitute the Joint Housing Authority, and those persons shall be called Commissioners.

(5) The Commissioners shall be appointed as follows:

(a) When two political subdivisions constitute the participating members in the Joint Authority, each shall appoint two persons to act as Commissioners and the Commissioners shall elect a fifth person to act as a Commissioner;

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(b) When three political subdivisions constitute the participating members in the Joint Authority, each shall appoint one person to act as a Commissioner and the Commissioners shall elect a fourth and fifth person to act as Commissioners;

(c) When four political subdivisions constitute the participating members in the Joint Authority, each shall appoint one person to act as a Commissioner and the Commissioners shall elect a fifth person to act as a Commissioner; and

(d) When five or more political subdivisions constitute the participating members in the Joint Authority, each shall appoint one person to act as Commissioner.

(6) Each Commissioner shall serve a term of five years from the date of his or her appointment. All vacancies shall be filled for the unexpired term by the entity originally appointing the Commissioner. Tenancy in a project established by a Joint Housing Authority shall not preclude the appointment of any person to serve as a Commissioner of the Joint Housing Authority. After a Joint Housing Authority has been created, additional political subdivisions may elect to participate as members of the Joint Housing Authority after compliance with Neb. RS 71-1523, if the majority of existing Commissioners in the Joint Housing Authority and all participating political subdivisions by their respective governing bodies consent to the additional member.

(7) A Joint Housing Authority having 12 or more Commissioners may, by resolution, establish an Executive Committee of at least five but not more than seven Commissioners. The Committee shall have powers over the management and operation of the Joint Housing Authority as the Commissioners of the Joint Housing Authority shall specify and shall declare in the resolution. No person shall serve as a Commissioner unless he or she resides within the area of operation of the Joint Housing Authority involved.

(1976 Code, § 2-205)

(B) *Continued existence as housing agency.*

(1) The local housing authority established under prior state law and in existence on January 1, 2000, shall have continued existence as a housing agency under the Nebraska Housing Agency Act.

(2) The local housing agency shall conduct its operations consistent with the Nebraska Housing Agency Act. All property, rights in land, buildings, records and equipment and any funds, money, revenue, receipts or assets of the authority belong to the agency as successor. All obligations, debts, commitments and liabilities of the authority are obligations, debts, commitments and liabilities of the successor agency.

(3) Any resolution by the authority and any action taken by the authority prior to January 1, 2000, with regard to any project or program which is to be completed within or to be conducted for a 12-month period following January 1, 2000, and which resolution or action is lawful under state law as it existed prior to January 1, 2000, is a lawful resolution or action of the successor agency and binding

upon the successor agency and enforceable by or against the agency notwithstanding that the resolution or action is inconsistent with, not authorized by, or prohibited under the provisions of the Nebraska Housing Agency Act.

(4) All commissioners of the local housing agency and all officers, legal counsel, technical experts, directors and other appointees or employees of the agency holding office or employment by virtue of any prior law on January 1, 2000, shall be deemed to have been appointed or employed under the Nebraska Housing Agency Act.

(1976 Code, § 2-205.01) (Ord. 157, passed 6-6-1983; Ord. 336, passed 10-9-2000)

Statutory reference:

Related provisions, see Neb. RS 71-1576

§ 31.07 BOARD OF ADJUSTMENT.

(A) The Chairperson may appoint, with the consent of the Board of Trustees, a Board of Adjustment which shall consist of five regular members plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason. Each member of the Board shall serve a term of three years, unless reappointed, and shall be removable only for cause by the governing body upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by that member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment. After the effective date of this section, the first vacancy occurring on the Board of Adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the municipality at that time as more than 200 persons reside within the area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside the corporate boundaries of the municipality but within its extraterritorial zoning jurisdiction.

(B) The members of the Board shall serve without compensation and may be required, in the discretion of the governing body, to give a bond in a sum set by resolution of the governing body, and conditioned upon the faithful performance of their duties. The Board shall organize at its first meeting in June of each year and elect from its membership a Chairperson and Secretary. It shall be the duty of the Secretary to keep complete and accurate minutes of all Board meetings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be public record. All meetings of the Board shall be open to the public and shall be held at such times as the governing body may, in its discretion, call a meeting. Special meetings may be also held upon the call of any three members of the Board. A majority of the Board shall constitute a quorum for the purpose of doing business. The Board shall adopt rules in accordance with the provisions of Neb. RS 19-901 to 19-914.

(C) It shall be the duty of the Board of Adjustment:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by a municipal official based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;

(2) To hear and decide, in accordance with the provisions of the zoning regulations, requests for interpretation of any map; and

(3) Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution.

(D) (1) No variance shall be authorized by the Board of Adjustment unless it finds that:

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

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

(c) The authorization of the variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and

(d) The granting of the variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

(2) No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

(E) In exercising the above-mentioned powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make the order, requirement, decision or determination as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of any municipal official, or to decide in favor of the applicant on any matter upon which it is required to pass under any regulation or to effect any variation in that regulation.

(F) The Board shall be responsible for making reports and performing other duties as the governing body may designate. No member of the Board of Adjustment shall serve in the capacity of both Chairperson and Secretary of the Board of Adjustment.

(G) In lieu of appointment of a Board of Adjustment by the Chairperson, with the consent of the Board of Trustees as set forth in division (A) above, the Board of Trustees, upon majority vote of the members of the Board of Trustees, may serve as the Board of Adjustment.

(1976 Code, § 2-206) (Ord. 269, passed 4-8-1996; Ord. 363, passed 4-10-2006)

Statutory reference:

Related provisions, see Neb. RS 19-907 through 19-910

§ 31.08 GOLF COURSE BOARD.

(A) The Golf Course Board shall consist of seven members who shall be appointed by the governing body. The Golf Course Board shall be appointed by resolution of the governing body. Any nominated member must receive a majority vote of the governing body. The initial members of the Golf Course Board shall serve a four-year term of office. Future members of the Golf Course Board shall be selected for four-year terms with each nominated member to receive a majority vote of the governing body. The Golf Course Board shall serve without compensation and may be required, in the discretion of the governing body, to give a bond in a sum set by resolution of the governing body, and conditioned upon the faithful performance of their duties.

(B) At the time of initial formation and at the time of the Board’s first meeting in July of each year, the Board shall organize by selecting from their members, a Chairperson, a Vice Chairperson, a Secretary and a Treasurer. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. It shall be the duty of the Treasurer to keep an accurate account of all disbursements and all receipts, including golf and green fees, sale of food, beverage and merchandise and sales tax with regard thereto and to submit a financial report to the Municipal Clerk upon a monthly basis, which shall be available for inspection at any reasonable time. The Treasurer shall provide to the Municipal Clerk the necessary information for payroll expenditures, filing of W-4s and other federal and state forms, the payment of which expenditures, the filing of which W-4s and the completion and filing of which federal or state forms shall be the responsibility of and completed by the Municipal Clerk.

(C) Although the Golf Course Board may make recommendations to the governing body with regard to employees, the Golf Course Board shall have no authority to hire employees. All employees shall be hired by the governing body and shall be deemed to be employees of the village.

(D) A majority of the Board Members shall constitute a quorum for the transaction of business. The Golf Course Board shall meet at times as the governing body may designate. Special meetings may be held upon call of the Chairperson of the Golf Court Board, or any three members of the Golf Course Board.

(E) It shall be the duty of the Golf Course Board to have general charge of the village golf course and to establish appropriate rules and regulations for the management, operation and use of the same. Although employees shall be hired by the Village Board, the Golf Course Board shall have supervisory authority over employees. All actions of the Golf Course Board shall be subject to the review and supervision of the governing body. The Golf Course Board shall be responsible for making reports and performing additional duties as the governing body may designate from time to time.

(F) No member of the governing body may serve as a member of the Golf Course Board while serving a term of office as a member of the governing body. No member of the Golf Course Board shall serve in more than one capacity as Chairperson, Vice Chairperson, Secretary and Treasurer of the Golf Course Board. The governing body shall appoint a member of the governing body to serve as an ex officio member of the Golf Course Board to act as liaison between the governing body and the Golf Course Board.

(1976 Code, § 2-207) (Ord. 360, passed 11-7-2005)

§ 31.09 COMMUNITY DEVELOPMENT AGENCY.

(A) There is hereby established pursuant to Neb. RS 18-2101.01 a Community Development Agency for the Village of Potter, Nebraska.

(B) The Chair and Village Board of the Village are hereby designated to be the Community Development Agency for the village.

(C) The Chair of the village shall be the chair of the Community Development Agency; the vice chair of the Village Board shall be the vice chair; and the Village Clerk shall be the Secretary of the Community Development Agency.

(D) The Community Development Agency shall have the power and authority to exercise those powers and authority granted to a community redevelopment authority under Neb. RS 18-2101 to 18-2144. The Community Development Agency shall also have the power and authority to do all community development activities, and to do all things necessary to cooperate with the federal government in all matters relating to community development program activities as a grantee, or as an agent or otherwise, under the provisions of the Federal Housing and Community Development Act of 1974, as amended through the Housing and Community Development Amendments of 1981. The Community Development Agency may levy taxes for the exercise of such jurisdiction and authority and may issue general obligation bonds, general obligation notes, revenue bonds, and revenue notes including those general obligation and revenue refunding bonds and notes for the purposes set forth in such sections and under the powers granted to any community redevelopment authority described therein.

(Ord. 418, passed 1-7-2013)

§ 31.10 COMMUNITY BUILDING BOARD.

(A) The Community Building Board shall consist of five members who shall be appointed by the governing body. Any nominated member must receive a majority vote of the governing body. The initial members of the Community Building Board shall serve a four-year term of office. Future members of the Community Building Board shall be selected for four-year terms with each nominated member to receive a majority vote of the governing body. The Community Building Board shall serve without compensation and may be required, in the discretion of the governing body, to give a bond in a sum set by resolution of the governing body, and conditioned upon the faithful performance of their duties.

(B) At the time of initial formation and at the time of the Board's first meeting in July of each year, the Board shall organize by selecting from their members, a Chairperson, a Vice Chairperson, a Secretary and a Treasurer. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. It shall be the duty of the Treasurer to keep an accurate account of all disbursements and all receipts, including ticket sales, sales of food, beverage and merchandise and sales tax with regard thereto and to submit a financial report to the Municipal Clerk upon a monthly basis, which shall be available for inspection at any reasonable time.

(C) A majority of the Board Members shall constitute a quorum for the transaction of business. The Community Building Board shall meet at times as the governing body may designate. Special meetings may be held upon call of the Chairperson of the Community Building Board, or any three members of the Community Building Board.

(D) It shall be the duty of the Community Building Board to have general charge of the Legion Hall and to establish appropriate rules and regulations for the management, operation and use of the same. All actions of the Community Building Board shall be subject to the review and supervision of the governing body. The Community Building Board shall be responsible for making reports and performing additional duties as the governing body may designate from time to time.

(E) The Community Building Board shall have the power to make and adopt such bylaws, rules, and regulations for its own guidance and for the government of the Legion hall as it may deem expedient.

(F) No member of the governing body may serve as a member of the Community Building Board while serving a term of office as a member of the governing body. No member of the Community Building Board shall serve in more than one capacity as Chairperson, Vice Chairperson, Secretary and Treasurer of the Community Building Board.

(G) The Community Building Board shall have exclusive control of expenditures, of all money collected or donated to the credit of the Legion Hall fund, of the renting the hall, and the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased or set apart for that purpose.

(H) The Community Building Board may establish rules and regulations for the government of the Legion Hall as may be deemed necessary for its preservation and to maintain its usefulness and its efficiency.

(Ord. 477, passed 6-9-2017)

§ 31.11 YOUTH CENTER BOARD.

(A) The Youth Center Board shall consist of five members who shall be appointed by the governing body. The Youth Center Board shall be appointed by the governing body. Any nominated member must receive a majority vote of the governing body. The initial members of the Youth Center Board shall serve a four-year term of office. Future members of the Youth Center Board shall be selected for four-year terms with each nominated member to receive a majority vote of the governing body. The Youth Center Board shall serve without compensation and may be required, in the discretion of the governing body, to give a bond in a sum set by resolution of the governing body, and conditioned upon the faithful performance of their duties.

(B) At the time of initial formation and at the time of the Board's first meeting in July of each year, the Board shall organize by selecting from their members, a Chairperson, a Secretary and a Treasurer. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. It shall be the duty of the Treasurer to keep an accurate account of all disbursements and all receipts, and to submit a financial report to the Municipal Clerk upon a quarterly basis, which shall be available for inspection at any reasonable time.

(C) A majority of the Board members shall constitute a quorum for the transaction of business. The Youth Center Board shall meet at times as the governing body may designate. Special meetings may be held upon call of the Chairperson of the Youth Center Board, or any three members of the Youth Center Board.

(D) It shall be the duty of the Youth Center Board to have general charge of the Youth Center and to establish appropriate rules and regulations for the management, operation and use of the same. All actions of the Youth Center Board shall be subject to the review and supervision of the governing body. The Youth Center Board shall be responsible for making quarterly reports to the governing body and performing additional duties as the governing body may designate from time to time.

(E) No member of the governing body may serve as a member of the Youth Center Board while serving a term of office as a member of the governing body. No member of the Youth Center Board shall serve in more than one capacity as Chairperson, Secretary and Treasurer of the Youth Center Board.

(Ord. 484, passed 3-12-2018)

§ 31.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24-hours' of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the village may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (1976 Code, § 2-301) (Ord. 339, passed 10-9-2000)

Statutory reference:

Related provisions, see Neb. RS 17-207, 17-505, 18-1720, 18-1722

CHAPTER 32: OFFICIALS AND EMPLOYEES

Section

Elected Officials

- 32.01 Board Chairperson; selection and duties
- 32.02 Village Board; organization
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Appointed Officials

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Cross-reference:

Elections, see Chapter 34

Village meetings, see Chapter 33

ELECTED OFFICIALS**§ 32.01 BOARD CHAIRPERSON; SELECTION AND DUTIES.**

The Village Board Chairperson shall be selected at the first regular meeting of the Board of Trustees in December by the Board of Trustees from its own membership. The Chairperson shall preside at all meetings of the Board of Trustees. In the absence of the Chairperson, the Board of Trustees shall elect one of its own body to occupy the position temporarily who shall hold the title of Chairperson Pro Tempore of the Board of Trustees. The Chairperson and the Chairperson Pro Tempore shall have the same powers and privileges as other members of the Board of Trustees. The Chairperson shall cause the ordinances of the Board of Trustees to be printed and published for the information of the inhabitants. The Chairperson shall also perform all duties of his or her office in accordance with the laws of the state and the ordinances of the village. The qualifications for the Chairperson shall be the same general qualifications that apply to the members of the Board of Trustees.

(1976 Code, § 1-101) (Ord. 249, passed 3-4-1996)

§ 32.02 VILLAGE BOARD; ORGANIZATION.

The Board of Trustees shall consist of five members. Any person who is a citizen of the United States, a resident of the village at the time of his or her election, and a registered voter may be eligible to be elected to the Board of Trustees. Every Trustee so elected and so qualified shall hold his or her office for a term of four years; provided, a Trustee's term shall expire, and the office will become vacant upon a change of residence from the village. The Board of Trustees shall, before entering upon the duties of its office, take an oath to support the Constitution of the United States, and the Constitution of the state, and faithfully and impartially discharge the duties of its office. All Trustees elected to office shall qualify and meet at the first regular meeting of the Board in December, organize and appoint the municipal officers required by law.

(1976 Code, § 1-102) (Ord. 250, passed 3-4-1996)

Statutory reference:

Related provisions, see Neb. RS 17-202 through 17-204

§ 32.03 POWERS OF VILLAGE BOARD.

(A) The Board of Trustees shall have the power to pass ordinances to prevent and remove nuisances; to restrain and prohibit gambling; to provide for licensing and regulating theatrical and other amusements within the village; to prevent the introduction and spread of contagious diseases; to establish and regulate markets; to erect and repair bridges; to erect, repair and regulate wharves and the rates of wharfage; to regulate the landing of water craft; to provide for the inspection of building materials to be used or offered for sale in the village; to govern the planting and protection of shade trees in the streets and the building of structures projecting upon or over and adjoining, and all excavations through and under, the

sidewalks of the village; and in addition to the special powers herein conferred and granted, to maintain the peace, good government and welfare of the village and its trade, commerce and manufactures; and to enforce all ordinances by inflicting penalties upon inhabitants or other persons for violation thereof not exceeding \$500 for any one offense, recoverable with costs.

(B) The village has the power and authority by ordinance to define, regulate, suppress and prevent nuisances, and to declare what constitutes a nuisance, and to abate and remove the same. The village may exercise power and authority within its zoning jurisdiction.
(1976 Code, § 1-103) (Ord. 338, passed 10-9-2000)

Statutory reference:

Related provisions, see Neb. RS 17-207, 18-1720

§ 32.04 VACANCY; ELECTED OFFICIALS.

(A) Every elective office shall be vacant upon the happening of any of the events specified in Neb. RS 32-560.

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

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

(D) The Chairperson and Board of Trustees may, in lieu of filling a vacancy in a village elected office as provided in divisions (B) and (C) above, call a special election to fill the vacancy.

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(E) If vacancies exist in the offices of a majority of the members of the Board of Trustees, the Secretary of State shall conduct a special election to fill the vacancies, except that the Board of Trustees of a village situated in more than one county shall have power to fill by appointment any vacancy that may occur in their number.

(F) No official who is removed at a recall election or resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal or the removal of any other member of the same governing body during the remainder of his or her term of office. (1976 Code, § 1-104) (Ord. 164, passed 4-1-1985; Ord. 308, passed 1-10-2000)

Statutory reference:

Related provisions, see Neb. RS 32-560 through 32-572, 32-1308

APPOINTED OFFICIALS**§ 32.15 APPOINTMENT; TERMS; REMOVAL; POWERS; DUTIES.**

(A) (1) The Board of Trustees may appoint a Village Clerk, Treasurer, Attorney, Overseer of the Streets, and Marshal or Chief of Police, and other such officers as shall be required by ordinance or otherwise required by law. Pursuant to division (A)(2) of this section, the Village Marshal or Chief of Police or any other police officer may appeal to the Village Board his or her removal, demotion, or suspension with or without pay. After a hearing, the Village Board may uphold, reverse, or modify the action.

(2) The Village Board of Trustees shall by ordinance adopt rules and regulations governing the removal, demotion, or suspension with or without pay of any police officer, including the Village Marshal or Chief of Police, in accordance with the requirements of Neb. RS 17-208. Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer by the appropriate authority, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty, or disobedience of orders.

(3) Division (A)(2) of this section does not apply to a police officer during his or her probationary period.

(B) The Village Clerk, Treasurer, Attorney, Overseer of the Streets, members of the Board of Health, and other appointed officers, except regular police officers, shall hold office for one year unless removed by the Chairperson of the Village Board with the advice and consent of the Trustees. (Neb. RS 17-208)

(C) (1) The village may enact ordinances or bylaws to regulate and prescribe the powers and duties of officers not provided for in state law.

(Neb. RS 17-604)

(2) If the Board of Trustees appoints any of the officials specified in this chapter or any other officials, the officials shall have the powers and duties, if any, provided in this chapter or as otherwise provided by village ordinances and state law.

(1976 Code, § 1-201) (Ord. 278, passed 11-10-1997; Ord. 399, passed 12-12-2011)

Statutory reference:

Related provisions, see Neb. RS 17-208, 17-541

§ 32.16 MERGER OF OFFICES.

The governing body of the village may, in its discretion, by ordinance combine and merge any elective or appointive office or employment, except Village Trustee, with any other elective, or appointive offices so that one or more of the offices may be held by the officer or employee at the same time, except that Trustees may perform and upon Board approval, receive compensation for seasonal or emergency work so long as there is no conflict of interest for compensation. The offices so merged and combined shall always be construed to be separate, and the effect of the combination or merger shall be limited to a consolidation of official duties only; and provided further, the salary of the officer holding the merged offices shall not be in excess of the maximum amount provided by law for the salary of the offices so combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers.

(1976 Code, § 1-202) (Ord. 167, passed 4-1-1985)

Statutory reference:

Related provisions, see Neb. RS 17-209.02

§ 32.17 CLERK-TREASURER.

(A) The appointive offices of Municipal Clerk and Municipal Treasurer are hereby combined and merged, in accordance with the authority granted to the governing body by § 32.16 above.

(B) The office so merged and combined shall always be construed to be separate, and the effect of the combination, or merger, shall be limited to a consolidation of official duties only.

(C) The salary of the officer holding the merged offices shall not be in excess of the maximum amount provided by law for the salary of the offices so combined.

(1976 Code, § 1-203)

§ 32.18 MUNICIPAL CLERK.

(A) The Village Clerk shall have the custody of all laws and ordinances and shall keep a correct journal of the proceedings of the Board of Trustees. After the period of time specified by the State Records Administrator pursuant to the Records Management Act, the Clerk may transfer the journal of the proceedings of the Board of Trustees to the State Archives of the Nebraska State Historical Society for permanent preservation. The Clerk shall also perform such other duties as may be required by the ordinances of the village.

(Neb. RS 17-605)

(B) (1) It shall be the duty of the Clerk to prepare and publish the official proceedings of the Board of Trustees within 30 days after any meeting of the Board. The publication shall be in a newspaper of general circulation in the village, shall set forth a statement of the proceedings of the meeting, and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for the publication shall not exceed the rates provided for in Neb. RS 23-122.
(Neb. RS 19-1102)

(2) Publication under division (B)(1) shall be made in one legal newspaper of general circulation in the village. If no legal newspaper is published in the village, then the publication shall be made in one legal newspaper published or of general circulation within the county in which the village is located. The cost of publication shall be paid out of the general funds of the village.
(Neb. RS 19-1103)

(C) The Clerk shall dispose of or destroy village public records when the records have been determined to be of no further legal, administrative, fiscal, or historical value by the State Records Administrator pursuant to Neb. RS 84-1201 through 84-1220, provided the provisions of this division shall not apply to the minutes of the Clerk and the permanent ordinance and resolution books, or any other record classified as permanent by the State Records Administrator.
(Neb. RS 18-1701)

(D) (1) The Clerk shall permit any person to examine and copy the public records in the Clerk's custody, and may charge a fee for providing copies of a public record, as provided in Neb. RS 84-712 through 84-712.09.

(2) The Clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution of the Board of Trustees.

(E) The Clerk shall permit no records, public papers, or other documents of the village kept and preserved in his or her office to be taken therefrom, except by such officers of the village as may be entitled to the use of the same, but only upon their leaving a receipt therefor, and except pursuant to Neb. RS 84-712(2). He or she shall keep all the records of his or her office, including a record of all licenses issued by him or her, in a blank book with a proper index. He or she shall include as part of his or her records all petitions under which the Board of Trustees shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions and ordinances relating to the same. He or she shall endorse the date and hour of filing upon every paper or document so filed in his or her office. All such filings made by him or her shall be properly docketed. Included in his or her records shall be all standard codes, amendments thereto, and other documents incorporated by reference and arranged in triplicate in a manner convenient for reference. He or she shall keep an

accurate and complete account of the appropriation of the several funds and draw, sign, and attest all warrants ordered for the payment of money on the particular fund from which the same is payable. At the end of each month, he or she shall then make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon.

(F) The Clerk shall deliver all warrants, ordinances, and resolutions under his or her charge to the Mayor for his or her signature. He or she shall also deliver to officers, employees, and committees all resolutions and communications which are directed at such officers, employees, or committees. With the seal of the village, he or she shall duly attest the Mayor's signature to all ordinances, deeds, and papers required to be attested to when ordered to do so by the Board of Trustees.

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

(H) The Clerk shall keep in a book with a proper index, copies of all notices required to be published or posted by the Clerk by order of the Board of Trustees or under the ordinances of the village. To each of the file copies of the notices shall be attached the printer's affidavit of publication, if the notices are required to be published, or the Clerk's certificate under seal where the same are required to be posted only.

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

(1976 Code, § 1-204) (Ord. 238, passed 6-7-1993; Ord. 439, passed 4-14-2014)

Statutory reference:

Related provisions, see Neb. RS 17-605, 19-1102, 19-1104, 84-1201 through 84-1220, 84-712

§ 32.19 MUNICIPAL TREASURER.

(A) (1) The Municipal Treasurer shall be the custodian of all money belonging to the village. He or she shall keep all money belonging to the village separate and distinct from her or her own money. He or she shall keep a separate account of each fund or appropriation, and the debits and credits belonging thereto. He or she shall issue duplicate receipts for all moneys received by him or her for the village. He or she shall give every person paying money into the municipal treasury a receipt therefor, specifying the date of payment and on what account paid. He or she shall also file copies of such receipts with his or her monthly reports. The Treasurer shall, at the end of every month, and as often as may be required, render an account to the Board of Trustees, under oath, showing the state of the

treasury at the date of such account and the balance of money in the treasury. He or she shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, with any and all vouchers held by him or her, shall be filed with his or her account in the Village Clerk's office. If the Treasurer fails to render his or her account within 20 days after the end of the month, or by a later date established by the Board of Trustees, the Chairperson with the advice and consent of the Board may use this failure as cause to remove the Municipal Treasurer from office.

(2) The Treasurer shall keep a record of all outstanding bonds against the village, showing the number and amount of each bond, for and to whom the bonds were issued, and the date upon which any bond is purchased, paid, or canceled. The Treasurer shall accompany the annual statement submitted pursuant to Neb. RS 19-1101 with a description of the bonds issued and sold in that year and the terms of sale, with every item of expense thereof.
(Neb. RS 17-606)

(B) (1) The Treasurer shall prepare and publish annually within 60 days after the close of the village fiscal year a statement of the receipts and expenditures of funds of the village for the preceding fiscal year. The statement shall also include the information required by Neb. RS 16-318(3) or Neb. RS 17-606(2). Not more than the legal rate provided for in Neb. RS 33-141 shall be charged and paid for such publication.
(Neb. RS 19-1101)

(2) Publication shall be made in one legal newspaper of general circulation in the village. If no legal newspaper is published in the village, then such publication shall be made in one legal newspaper published or of general circulation within the county in which the village is located.
(Neb. RS 19-1103)

(C) (1) All warrants upon the Treasurer shall be paid in the order of their presentation therefor and as otherwise provided in Neb. RS 77-2201 through 77-2215.
(Neb. RS 77-2201)

(2) The Treasurer shall keep a warrant register, which register shall show in columns arranged for that purpose the number, the date, and the amount of each warrant presented and registered, the particular fund upon which the same is drawn, the date of presentation, the name and address of the person in whose name the warrant is registered, the date of payment, the amount of interest, and the total amount paid thereon, with the date when notice to the person in whose name such warrant is registered is mailed.
(Neb. RS 77-2202)

(3) The Treasurer shall make duplicate receipts for all sums which shall be paid into his or her office, which receipts shall show the source from which such funds are derived, and shall, by distinct lines and columns, show the amount received to the credit of each separate fund, and whether the same

was paid in cash, in warrants, or otherwise. The Treasurer shall deliver one of the duplicates to the person making the payment and retain the other in his or her office.
(Neb. RS 77-2209)

(4) The Treasurer shall daily, as money is received, foot the several columns of the cash book and of the register, and carry the amounts forward, and at the close of each year, in case the amount of money received by the Treasurer is insufficient to pay the warrants registered, he or she shall close the account for that year in the register and shall carry forward the excess.
(Neb. RS. 77-2210)

(5) The cash book, register, and retained receipts of the Treasurer shall at all times be open to the inspection of any person in whose name any warrants are registered and unpaid.
(Neb. RS 77-2212)

(D) The Treasurer shall permit any person to examine and copy the public records in the Treasurer's custody, and may charge a fee for providing copies of a public record, as provided in Neb. RS 84-712 through 84-712.09.

(E) The Treasurer shall keep all money belonging to the village separate and distinct from his or her own money. He or she shall cancel all bonds, coupons, warrants, and other evidences of debt against the village, whenever paid by him or her, by writing or stamping on the face thereof, "Paid by the Village Treasurer," with the date of payment written or stamped thereon. He or she shall collect all special taxes, allocate special assessments to the several owners, and obtain from the County Treasurer a monthly report as to the collection of delinquent taxes.
(1976 Code, § 1-205) (Ord. 429, passed 2-10-2014)

Statutory reference:

Related provisions, see Neb. RS 17-606 through 17-609, 84-712

§ 32.20 (RESERVED).

§ 32.21 ANNUAL REPORT OF TREASURER.

The Municipal Treasurer shall publish in a legal newspaper having general circulation within the village, within 60 days following August 1 of each year, a report of the activities of his or her office which the report shall show in detail. The report shall include all receipts, disbursements, warrants outstanding and the debit, or credit balance of the village.

(1976 Code, § 1-207)

Statutory reference:

Related provisions, see Neb. RS 19-1101

§ 32.22 MUNICIPAL ATTORNEY.

(A) The Municipal Attorney is the village's legal advisor, and as such he or she shall commence, prosecute and defend all suits on behalf of the village. When requested by the governing body, he or she shall attend meetings of the governing body, and shall advise any municipal official in all matters of law in which the interests of the village may be involved.

(B) He or she shall draft the ordinances, bonds, contracts and other writings as may be required in the administration of the affairs of the village. He or she shall examine all bonds, contracts and documents on which the governing body will be required to act, and attach thereto a brief statement in writing to all instruments, and documents as to whether, or not, the document is in legal, and proper form. He or she shall prepare complaints, attend and prosecute violations of the municipal ordinances when directed to do so by the governing body.

(C) Without direction, he or she shall appear, and prosecute all cases for violation of the municipal ordinances that have been appealed to, and are pending in any higher court.

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

(E) The governing body shall have the right to compensate the Municipal Attorney for legal services on terms as the governing body and the Municipal Attorney may agree, and to employ any additional legal assistance as may be necessary out of the funds of the village.

(1976 Code, § 1-208)

Statutory reference:

Related provisions, see Neb. RS 17-610

§ 32.23 VILLAGE MARSHAL.

The Village Marshal shall direct the police work of the village and shall be responsible for the maintenance of law and order. He or she shall act as Health Inspector, and Building Inspector, except in the event the village appoints another person. He or she shall file the necessary complaints in cases arising out of violations of municipal ordinances, and shall make all necessary reports required by the municipal ordinances, or the laws of the state.

(1976 Code, § 1-209)

Statutory reference:

Related provisions, see Neb. RS 17-213

§ 32.24 POLICE OFFICER.

(A) The municipal police, whether regular, or special shall have the power to arrest all offenders against the laws of the state, or the village, by day or by night, and keep the offenders in the municipal jail, or some other place to prevent their escape until trial can be held before the proper official of the state, or the village. They shall have full power, and authority to call on any person whenever necessary to assist them in performing public duties, and failure, neglect or refusal to render assistance shall be deemed a misdemeanor punishable upon conviction by a fine.

(B) Every municipal police officer shall be expected to be conversant, and knowledgeable with the municipal and state laws and no law enforcement official shall have any interest in any establishment having a liquor license, municipal police officer shall have the duty to file the complaints and reports as may be required by the municipal ordinances, and the laws of the state.

(C) Any municipal police officer who shall willfully fail, neglect or refuse to make an arrest, or who purposely, and willfully fails to make a complaint after an arrest is made shall be deemed guilty of a misdemeanor, and upon conviction shall be fined.

(D) It shall be unlawful for the governing body to retain any municipal police officer in that position after he or she shall have been duly convicted of the willful violation of any law of the United States of America, the state or any ordinance of the village, except minor traffic violations.

(E) It shall be the duty of every municipal police officer making a lawful arrest to search all persons in the presence of some other person, whenever possible, and shall carefully keep, and produce to the proper judicial official upon the trial everything found upon the person of the prisoners.

(F) All personal effects so taken from prisoners aforesaid shall be restored to them upon their release. Suitable uniforms and badges shall be furnished to the municipal police by the village.

(G) Any member who shall lose or destroy the same shall be required to pay the replacement costs, and in the event that any member shall leave the force, he or she shall immediately deliver his or her badge to the Police Chief. The governing body may from time to time provide the municipal police with the uniforms, equipment and transportation as may be essential in the performance of their official duties.

(1976 Code, § 1-210) Penalty, see § 10.99

Statutory reference:

Related provisions, see Neb. RS 17-213

§ 32.25 FIRE CHIEF.

The Municipal Fire Chief shall be elected by the members of the Fire Department. He or she shall enforce all laws and ordinances covering the prevention of fires; the storage and use of explosives and flammable substances; the installation of fire alarm systems; the maintenance of fire extinguishing equipment; the regulation of fire escapes; and the inspection of all premises requiring adequate fire escapes. He or she shall within two days investigate the cause, origin and circumstances of fires arising within his or her jurisdiction. He or she shall, on or before April 1 and October 1 of each year, cause the secretary to file with the Municipal Clerk, and the Clerk of the District Court a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the exemptions provided by law. The Fire Chief, or his or her assistant in charge of operations at a fire may command the services of any person present at any fire in extinguishing the same or in the removal, and protection of property. Failure to obey such an order shall be a misdemeanor punishable by a fine. The Fire Chief shall have the right to enter at all reasonable hours into buildings, and upon all premises within his or her jurisdiction for the purpose of examining the same for fire hazards, and related dangers.

(1976 Code, § 1-211)

Statutory reference:

Related provisions, see Neb. RS 17-505, 35-102, 35-108, 81-506, 81-512

§ 32.26 SPECIAL ENGINEER.

(A) The governing body may employ a Special Engineer to make or assist the Municipal Engineer in making any particular estimate, survey or other work. The Special Engineer shall make a record of the minutes of his or her surveys and all other work done for the village.

(B) He or she shall, when directed by the governing body, accurately make all plats, sections, profiles and maps as may be necessary in the judgment of the governing body. He or she shall, upon request of the governing body, make estimates of the costs of labor and material which may be done or furnished by contract with the village, and make all surveys, estimates and calculations necessary for the establishment of grades, bridges, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, curbing and gutters, and the improvement of streets and erection and repair of buildings, and shall perform other duties as the governing body may require.

(C) All records of the Special Engineer shall be public records which shall belong to the village, and shall be turned over to his or her successor.

(1976 Code, § 1-212) (Ord. 183, passed 4-7-1986)

Statutory reference:

Related provisions, see Neb. RS 17-405, 17-568, 17-568.01, 17-919

§ 32.27 LANDFILL SUPERINTENDENT.

The Municipal Landfill Superintendent shall have the immediate control and supervision of the Municipal Landfill, and of all dumping of garbage, refuse, waste and rubbish thereon, subject to the general control and directives of the governing body. He or she shall at least every six months, make a detailed report to the governing body on the condition of the landfill, and shall direct its attention to the improvements, additions and additional employees as he or she may believe are needed along with an estimate of the cost thereof. He or she shall issue dumping permits if the governing body should require them and shall inspect and supervise all work done to improve or extend the landfill. He or she shall have other duties as the governing body may delegate to him or her. He or she may be removed at any time by a two-thirds vote of the governing body.

(1976 Code, § 1-213)

§ 32.28 UTILITIES SUPERINTENDENT.

(A) A Utilities Superintendent shall be appointed in the event that there is more than one municipal utility, and the governing body determines that it is in the best interest of the village to appoint one official to have the immediate control over all the municipal utilities and municipal streets. The Utilities Superintendent may be removed at any time by a two-thirds vote of the governing body.

(B) Any vacancy occurring in the office by death, resignation or removal may be filled in the manner hereinbefore provided for the appointment of all municipal officials.

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(C) The Utilities Superintendent's duties over the following departments shall be as stated herein.

(1) *Water Department.* He or she shall have general supervision and control over the municipal water system, and shall be primarily responsible for its economic operation and prudent management. Included in the water system shall be the water plant, the pump house, all machinery and appliances used in connection with producing and distributing water to inhabitants of the village. All actions, decisions and procedures of the Utilities Superintendent shall be subject to the general directives and control of the governing body. The Utilities Superintendent shall have the general control and supervisory authority over all employees of the Water System which the governing body may from time to time hire to operate and maintain the system. Unless some other official is specifically designated, he or she shall collect all money received by the village on account of the system of waterworks, and shall faithfully account for, and pay over to the Municipal Treasurer all the money collected in the name of the village and receive a receipt from the Municipal Treasurer for the depository evidence of his or her faithful discharge of this duty. This receipt shall then be filed with the Municipal Clerk, and the second copy shall be kept by the Superintendent. He or she shall make a detailed report to the governing body at least once every six months, of the condition of the water system, of all mains, pipes, hydrants, reservoirs and machinery and the improvements, repairs and extensions thereof as he or she may think proper. The report shall show the amount of receipts and expenditures on account thereof for the preceding six months. No money shall be expended for improvements, repairs or extensions of the waterworks system except upon the recommendation of the Superintendent. The Utilities Superintendent shall provide a bond conditioned upon the faithful discharge of his or her duties which shall amount to not less than the amount set by resolution of the governing body and on file in the office of the Municipal Clerk. He or she shall perform additional duties as may be prescribed by the governing body.

(2) *Sewer Department.* The Utilities Superintendent shall have the immediate control, and supervision over all the employees, and property that make up the municipal sewer system, subject to the general control, and directives of the governing body. He or she shall at least every six months, make a detailed report to the governing body on the condition of the sewer system, and shall direct their attention to the improvements, repairs, extensions, additions and additional employees as he or she may believe are needed along with an estimate of the cost thereof. He or she shall have other duties as the governing body may delegate to him or her. He or she shall issue permits for all connections to the municipal sewer system, and inspect and supervise all repairs made to the system.

(3) *Street Department.* The Utilities Superintendent shall, subject to the orders, and directives of the governing body, have general charge, direction and control of all work on the streets, sidewalks, culverts and bridges of the village, and shall perform other duties as the governing body may require. It shall be his or her responsibility to see that gutters and drains therein function properly, and that the same are kept in good repair. He or she shall, at the request of the governing body make a detailed report to the governing body on the condition of the streets, sidewalks, culverts, alleys and bridges of the village, and shall direct its attention to the improvements, repairs, extensions, additions and additional

employees as he or she may believe are needed to maintain a satisfactory street system in the village along with an estimate of the cost thereof. He or she shall issue permits, and assume other duties as the governing body may direct.

(1976 Code, § 1-214)

Statutory reference:

Related provisions, see Neb. RS 17-214, 17-541, 17-543

§ 32.29 SALARY RANGES.

(A) Salary ranges:

- (1) Clerk-Treasurer: \$12 to \$25/per hour.
- (2) Maintenance Supervisor: \$15 to \$35/per hour.
- (3) Librarian: Minimum wage to \$15/per hour.
- (4) Seasonal/temporary part-time employee: Minimum wage to \$12/per hour.
- (5) Permanent part-time employee: Minimum wage to \$15/per hour.

(B) The exact salary of the appointed officials within the salary ranges set forth above shall be established periodically by a motion of the Board of Trustees. Pursuant to Neb. RS 19-1102, the employee job titles and the current hourly salaries of all appointed officials shall be published between July 15 and August 15 of each year in a newspaper of general circulation in the village.

(Ord. 386, passed 10-10-2011)

BONDS AND OATH

§ 32.40 FORM; BONDS.

(A) Official bonds of the village shall be in form, joint and several, and shall be made payable to the village in the penalty as the governing body may set by resolution; provided, the penalty amount on any bond shall not fall below the legal minimum, when one has been set by the state, for each particular official. All official bonds of the municipal officials shall be executed by the principal named in the bonds and by at least two sufficient sureties who shall be freeholders of the county, or by the official

as principal and by a guaranty, surety, fidelity or bonding company; provided no municipal official, while still in his or her official term of office, shall be accepted as surety on any other official's bond, contractor's bond, license bond or appeal bond under any circumstances.

(B) Only companies that are legally authorized to transact business in the state shall be eligible for suretyship on the bond of an official of the village. All the bonds shall obligate the principal, and sureties for the faithful discharge of all duties required by law of the principal, and shall inure to the benefit of the village and any persons who may be injured by a breach of the conditions of the bonds. No bond shall be deemed to be given or complete until the approval of the governing body, and all sureties are endorsed in writing on the instrument by the Chairperson of the Board of Trustees and Municipal Clerk pursuant to the approval of the governing body.

(C) The premium on any official bond required to be given may be paid out of the General Fund, or other proper municipal fund, upon a resolution to that effect by the governing body at the beginning of any municipal year. All official bonds, meeting the conditions herein, shall be filed with the Municipal Clerk for his or her official records, and it shall be the duty of the Municipal Clerk to furnish a certified copy of any bond so filed upon the payment of a fee which shall be set by resolution of the governing body. In the event that the sureties on the official bond of any officer of the village, in the opinion of the governing body, become insufficient, the governing body may, by resolution, fix a reasonable time within which the officer may give a new bond or additional sureties as directed.

(D) In the event that the officer should fail, refuse or neglect to give a new bond, or additional sureties to the satisfaction, and approval of the governing body then the office shall, by the failure, refusal or neglect, become vacant, and it shall be the duty of the governing body to appoint a competent, and qualified person to fill the office. Any official who is re-elected to office shall be required to file a new bond after each election.

(1976 Code, § 1-301)

Statutory reference:

Related provisions, see Neb. RS 11-103 through 11-118, 17-604

§ 32.41 OATH OF OFFICE.

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

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

(1976 Code, § 1-302)

Statutory reference:

Related provisions, see Neb. RS 11-101

§ 32.42 BONDS; REQUIREMENTS.

(A) The village may enact ordinances or bylaws to require from all officers and servants, elected or appointed, bonds and security or evidence of equivalent insurance for the faithful performance of their duties. The village may pay the premium for such bonds or insurance coverage.

(Neb. RS 17-604)

(B) (1) All official bonds of officers of the village shall be in form joint and several and made payable to the village in such penalty as the Board of Trustees may fix.

(2) In place of the individual bonds required to be furnished by municipal officers, a schedule, position, blanket bond or undertaking, or evidence of equivalent insurance may be given by municipal officers, or a single corporate surety fidelity, schedule, position, or blanket bond or undertaking, or evidence of insurance coverage covering all the officers, including officers required by law to furnish an individual bond or undertaking, may be furnished. The municipality may pay the premium for the bond or insurance coverage. The bond or insurance coverage shall be, at a minimum, an aggregate of the amounts fixed by law or by the Board of Trustees, and with such terms and conditions as may be required.

(Neb. RS 11-104)

(3) The penalty amount on any bond shall not fall below the legal minimum, when one has been set by the state, for each particular official.

(C) (1) Official bonds, with the oath endorsed thereon, shall be filed in the Village Clerk's office within the following time:

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(a) Of all officers elected at any general election, following receipt of their election certificate and not later than ten days before the first Thursday after the first Tuesday in January next succeeding the election;

(b) Of all appointed officers, within 30 days after their appointment; and

(c) Of officers elected at any special election and city/village officers, within 30 days after the canvass of the votes of the election at which they were chosen.

(2) The filing of the bond with the oath endorsed thereon does not authorize a person to take any official action prior to the beginning of his or her term of office pursuant to Article XVII, section 5, of the Constitution of Nebraska.

(Neb. RS 11-105)

(D) All official bonds of village officers shall be executed by the principal named in such bonds and by at least two sufficient sureties who shall be freeholders of the county in which such bonds are given, or any official bond of a village officer may be executed by the officer as principal and by a guaranty, surety, fidelity, or bonding company as surety, or by two or more such companies. Only such companies as are legally authorized to transact business in this state shall be eligible to suretyship on the bond of a village officer.

(Neb. RS 11-109)

(E) The Village Clerk shall carefully record and preserve the bonds in his or her office and shall give certified copies thereof, when required, under the seal of his or her office, and shall be entitled to receive for the same the usual fee allowed by law for certified copies of records in other cases.

(Neb. RS 11-110)

(F) (1) The approval of each official bond shall be endorsed upon such bond by the officer approving the same, and no bond shall be filed and recorded until so approved.

(Neb. RS 11-111)

(2) No bond shall be deemed to be given or complete until the approval of the Board of Trustees and all sureties are endorsed in writing on the instrument by the Chairperson and Village Clerk pursuant to the approval of the Board of Trustees.

(G) All official bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of such principal and shall inure to the benefit of any persons injured by a breach of the conditions of such bonds.

(Neb. RS 11-112)

(H) No official bond shall be rendered void by reason of any informality or irregularity in its execution or approval.

(Neb. RS 11-113)

(I) No village official shall be taken as security on the bond of any administrator, executor, or other officer from whom by law bond is or may be required.

(Neb. RS 11-114)

(J) If any person elected or appointed to any office neglects to have his or her official bond executed and approved as provided by law and filed for record within the time limited by this section, the Village Clerk shall immediately issue an order to such person to show cause why he or she has failed to properly file such bond and why his or her office should not be declared vacant. If such person properly files the official bond within ten days of the issuance of the show cause order for appointed officials or before the date for taking office for elected officials, such filing shall be deemed to be in compliance with this section. If such person does not file the bond within ten days of the issuance of such order for appointed officials or before the date for taking office for elected officials and sufficient cause is not shown within that time, his or her office shall thereupon ipso facto become vacant and such vacancy shall thereupon immediately be filled by election or appointment as the law may direct in other cases of vacancy in the same office.

(Neb. RS 11-115)

(K) Any person appointed to fill a vacancy, before entering upon the duties of the office, must give a bond corresponding in substance and form with the bond required of the officer originally elected or appointed, as herein provided.

(Neb. RS 11-116)

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

(Neb. RS 11-117)

(M) No person shall be surety for the same officer for more than two successive terms of the same office, but this provision shall not apply to incorporated surety companies.

(Neb. RS 11-118)

(N) If the sureties on the official bond of any appointed officer of the village, in the opinion of the Board of Trustees, become insufficient, the Board may, by resolution, fix a reasonable time within which the officer may give a new bond or additional sureties as directed. If the officer fails, refuses, or neglects to give a new bond or additional sureties to the satisfaction and approval of the Board, the office shall, by such failure, refusal, or neglect, become vacant and it shall be the duty of the Board to appoint a competent and qualified person to fill the office.

(Ord. 434, passed 1-13-2014)

CHAPTER 33: VILLAGE MEETINGS

Section

Meetings in General

- 33.01 Meetings defined
- 33.02 Public body
- 33.03 Public meetings
- 33.04 Closed sessions
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Ordinances, Resolutions and Motions

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Cross-reference:

- Officials and Employees, see Chapter 32*
- Village Organizations, see Chapter 31*

MEETINGS IN GENERAL**§ 33.01 MEETINGS DEFINED.**

MEETINGS, as used in this subchapter, shall mean all regular, special or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action.

(1976 Code, § 1-501) (Ord. 184, passed 4-7-1986)

Statutory reference:

Related provisions, see Neb. RS 84-1409(2)

§ 33.02 PUBLIC BODY.

(A) **PUBLIC BODY**, as used in this subchapter, shall mean:

(1) The governing body of the municipality;

(2) All independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies, now or hereafter created by Constitution, statute, ordinance or otherwise pursuant to law; and

(3) Advisory committees of the bodies listed above.

(B) This subchapter shall not apply to subcommittees of the bodies unless a quorum of the public body attends a subcommittee meeting or unless the subcommittees are holding hearings, making policy or taking formal action on behalf of their parent body.

(1976 Code, § 1-502) (Ord. 184, passed 4-7-1986; Ord. 239, passed 6-7-1993)

Statutory reference:

Related provisions, see Neb. RS 84-1409(1)

§ 33.03 PUBLIC MEETINGS.

(A) All public meetings as defined by law shall be held in a municipal public building which shall be open to attendance by the public. All meetings shall be held in the public building in which the governing body usually holds the meetings unless the publicized notice hereinafter required shall designate some other public building or other specified place.

(B) The advance publicized notice of all public convened meetings shall be simultaneously transmitted to all members of the governing body and to the public by a method designated by the governing body or by the Chairperson if the governing body has not designated a method. The notice shall contain the time and specific place for each meeting and either an enumeration of the agenda

subjects known at the time of the notice, or a statement that an agenda kept continually current shall be readily available for public inspection at the office of the Municipal Clerk. Except for items of an emergency nature, the agenda shall not be enlarged later than 24 hours before the scheduled commencement of the meeting. The governing body shall have the right to modify the agenda to include items of an emergency nature only, at the public meetings.

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

(D) The minutes of the governing body shall be a public record open to inspection by the public upon request at any reasonable time at the office of the Municipal Clerk. Any official action on any question or motion duly moved and seconded shall be taken only by roll call vote of the governing body in open session. The record of the Municipal Clerk shall show how each member voted, or that the member was absent and did not vote.

(1976 Code, § 1-503) (Ord. 184, passed 4-7-1986)

Statutory reference:

Related provisions, see Neb. RS 84-1408, 84-1409, 84-1411, 84-1413

§ 33.04 CLOSED SESSIONS.

(A) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if the individual has not requested a public meeting.

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

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct; or

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if the person has not requested a public meeting.

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

(B) The vote to hold a closed session shall be taken in open session. The vote of each member on the question of holding a closed session, the reason for the closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. The public body holding such a closed session shall restrict its consideration to matters during the closed portions to only those purposes set forth in the minutes as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under division (A)(1)(a) above.

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

(D) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the provisions of this subchapter. No closed session, informal meeting, chance meeting, social gathering or electronic communication shall be used for the purpose of circumventing the provisions of this subchapter.

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

(1976 Code, § 1-504) (Ord. 184, passed 4-7-1986; Ord. 235, passed 6-7-1993; Ord. 265, passed 4-8-1996)

Statutory reference:

Related provisions, see Neb. RS 84-1410

§ 33.05 EMERGENCY MEETINGS.

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in the meeting shall pertain only to the emergency. The emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of § 33.08 below shall be complied with in conducting emergency meetings. Complete minutes of the emergency meetings specifying the nature of the

emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(1976 Code, § 1-505) (Ord. 184, passed 4-7-1986)

Statutory reference:

Related provisions, see Neb. RS 84-1411

§ 33.06 MEETING MINUTES.

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

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

(C) Minutes shall be written and available for inspection within ten working days, or prior to the next convened meeting, whichever occurs earlier.

(1976 Code, § 1-506)

Statutory reference:

Related provisions, see Neb. RS 84-1412, 84-1413

§ 33.07 VOTES.

(A) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted, or if the member was absent or not voting.

(B) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

(1976 Code, § 1-507)

Statutory reference:

Related provisions, see Neb. RS 17-616, 84-1413

§ 33.08 NOTICE TO NEWS MEDIA.

The Municipal Clerk, Secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting, and the subjects to be discussed at that meeting.

(1976 Code, § 1-508)

Statutory reference:

Related provisions, see Neb. RS 84-1411

§ 33.09 PUBLIC PARTICIPATION.

(A) Subject to the provisions of this subchapter, the public shall have the right to attend and the right to speak at meetings of public bodies and all or any part of a meeting of a public body except for closed meetings called pursuant to § 33.04 above may be videotaped, televised, photographed, broadcast or recorded by any person in attendance by means of a tape recorder, camera, video equipment or any other means of pictorial or sonic reproduction or in writing.

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

(C) No public body shall require members of the public to identify themselves as a condition for admission to the meeting. The body may require any member of the public desiring to address the body to identify himself or herself. No public body shall for the purpose of circumventing the provisions of this subchapter hold a meeting in a place known by the body to be too small to accommodate the anticipated audience. No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(D) An agency which contracts with municipalities outside the state may hold meetings of any Committee outside the state if the meetings are held only in the contracting municipalities. Final action on any agenda item shall only be taken by the agency at a meeting in the state, which meeting shall comply with Neb. RS 84-1408 to 84-1414. The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting. Public bodies shall make available at the meeting, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting. (1976 Code, § 1-509) (Ord. 184, passed 4-7-1986; Ord. 191, passed 8-3-1987)

Statutory reference:

Related provisions, see Neb. RS 18-2438, 84-1412

§ 33.10 GOVERNING BODY MEETINGS.

(A) The meetings of the governing body shall be held in the meeting place of the municipality or if necessary, some other suitable place. Regular meetings shall be held on the second Monday of each month. The meetings are held at the Village Office, unless otherwise posted, and the time of the meetings is 7:00 p.m., unless otherwise posted.

(B) The Board may change the meeting information by ordinance if permanent changes are required.

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(C) Special meetings may be called by the Board Chairperson, or by a majority of the Village Board, the object of which shall be submitted to the Village Board members in writing. The call and object, as well as the disposition thereof, shall be entered upon the journal by the Municipal Clerk. On filing the call for a special meeting the Municipal Clerk shall notify the Village Board of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a member of the Village Board who is known to be out of the state, or physically unable to be present.

(E) A majority of the members of the Village Board shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day and compel the attendance of the absent members; provided, that on the request of any two members, whether a quorum is present or not, all absent members shall be sent for and compelled to attend.

(F) At the hour appointed for the meeting, the Municipal Clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the Village Board shall be called to order by the Board Chairperson. In the absence of the Board Chairperson from any meeting of the Board of Trustees, the Board shall have the power to appoint a Chairperson Pro Tempore, who shall exercise and have the powers and perform the same duties as the regular Village Chairperson. (1976 Code, § 1-510) (Ord. 136, passed 3-1-1982; Ord. 479, passed 7-10-2017)

Statutory reference:

Related provisions, see Neb. RS 17-204, 17-205, 17-210

§ 33.11 CHANGE IN OFFICE.

The Chairperson and Board of Trustees shall meet at the regular meeting of the Board in December in each election year, and the outgoing officers and outgoing members of the Board of Trustees shall present their reports, and upon the outgoing Board having completed its business, the outgoing Trustees shall surrender their offices to the incoming Trustees, and the outgoing officers shall thereupon each surrender to his or her successor in office all property, records, papers and moneys belonging to the same.

(1976 Code, § 1-511) (Ord. 251, passed 3-4-1996)

Statutory reference:

Related provisions, see Neb. RS 17-204

§ 33.12 RE-ORGANIZATIONAL MEETING.

(A) The newly elected Board of Trustees shall convene at the regular place of meeting at the first regular meeting of the Board in each election year immediately after the prior Board adjourns and proceed to organize themselves for the ensuing year. The Chairperson Pro Tempore shall call the

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meeting to order. The Board shall then proceed to examine the credentials of its members and other elective officers of the village to see that each has been duly and properly elected and to see that the oaths and bonds have been given as are required.

(B) After ascertaining that all Trustees and officers are duly qualified, the Board shall then elect one of its own body who shall be styled as Chairperson of the Board of Trustees. The Chairperson shall then nominate his or her candidates for appointive offices and the officers shall hold office until their successors are duly appointed and qualified.

(C) The Chairperson shall then proceed with the regular order of business. It is hereby made the duty of each and every member of the Board or of its successors in office and of each officer hereafter elected to any office, to qualify prior to the first regular meeting of the Board in December following his or her election. Immediately upon the assembly of the newly elected Board upon the first regular meeting in December following the election, each officer elected at the general election shall take possession of his or her office.

(D) Each appointive officer who is required to give bond shall qualify by filing the required bond, approved by the Board of Trustees, in the office of the Municipal Clerk within two weeks from the date of his or her appointment; provided, on the bond shall be endorsed the same oath as required of a Trustee. Failure to qualify by elective or appointive officers within the time and manner provided in this section shall and does in itself create a vacancy in the office to which the person failing to qualify shall have been elected or appointed.

(1976 Code, § 1-512) (Ord. 252, passed 3-4-1996)

Statutory reference:

Related provisions, see Neb. RS 17-204

ORDINANCES, RESOLUTIONS AND MOTIONS

§ 33.25 RULES AND RESOLUTIONS; GRANT OF POWER.

The governing body may make all ordinances, bylaws, rules, regulations and resolutions, not inconsistent with the laws of the state, as may be expedient for maintaining the peace, good government and welfare of the village and its trade, commerce and manufactures.

(1976 Code, § 1-601) (Ord. 179, passed 11-10-1997)

Statutory reference:

Related provisions, see Neb. RS 17-505

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§ 33.26 INTRODUCTION.

Ordinances shall be introduced by members of the governing body in one of the following ways:

(A) With the recognition of the Chairperson, a member may, in the presence and hearing of a majority of the members elected to the governing body, read aloud the substance of the proposed ordinance and file a copy with the Municipal Clerk for future consideration; or

(B) With the recognition of the Chairperson, a member may present the proposed ordinance to the Clerk who, in the presence and hearing of a majority of the members elected to the governing body, shall read aloud the substance of the ordinance and file it for future consideration.

(1976 Code, § 1-602) (Ord. 280, passed 11-10-1997)

§ 33.27 PROCEDURE OF RESOLUTIONS AND MOTIONS.

Resolutions and motions shall be introduced in one of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly read one time in the presence and hearing of a majority of the members elected to the Council. The issue raised by the resolutions or motions shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the Council. A majority vote shall be required to pass any resolution or motion. The vote on any resolution or motion shall be by roll call vote.

(1976 Code, § 1-603)

§ 33.28 ORDINANCES; STYLE.

The style of all municipal ordinances shall be: “Be it ordained by the Chairperson and Board of Trustees of the Village of Potter, Nebraska”.

(1976 Code, § 1-604)

Statutory reference:

Related provisions, see Neb. RS 17-613

§ 33.29 TITLE OF ORDINANCES.

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

(1976 Code, § 1-605)

Statutory reference:

Related provisions, see Neb. RS 17-614

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§ 33.30 BYLAWS; READING; PASSAGE.

(A) Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the governing body vote to suspend this requirement, except that the requirement shall not be suspended for any ordinance for the annexation of territory.

(B) In case the requirement is suspended, the ordinance shall be read by title and then moved for final passage. Three-fourths of the governing body may require a reading of any ordinance in full before enactment under either procedure set out in this section.

(C) All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the governing body. On the passage or adoption of every bylaw or ordinance, and every resolution or order to enter into a contract by the governing body, the yeas and nays shall be called and recorded.

(D) To pass or adopt any bylaw, ordinance or any resolution or order, a concurrence of a majority of the whole number of members elected to the governing body shall be required.

(E) All appointments of the officers by the governing body shall be made viva voce; and the concurrence of a like majority shall be required, and the names of those, and for whom they voted, on the vote resulting in an appointment, shall be recorded.

(F) The requirements of a roll call or viva voce vote shall be satisfied by a village which utilizes an electronic voting device which allows the yeas and nays of each member of the governing body to be readily seen by the public.

(1976 Code, § 1-606) (Ord. 263, passed 4-8-1996; Ord. 281, passed 11-10-1997)

Statutory reference:

Related provisions, see Neb. RS 17-614, 17-616

§ 33.31 PUBLICATION OF ORDINANCES.

All ordinances of a general nature shall, before they take effect, be published one time within 15 days after they are passed:

(A) In a legal newspaper of general circulation in the village; or

(B) In book or pamphlet form.

(1976 Code, § 1-607) (Ord. 198, passed 8-3-1987; Ord. 282, passed 12-8-1997; Ord. 485, passed 5-14-2018)

Statutory reference:

Related provisions, see Neb. RS 17-613

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§ 33.32 CERTIFICATE OF PUBLICATION OR POSTING.

The passage, approval and publication or posting of all ordinances shall be sufficiently proven by a certificate under the Seal of the Village from the Municipal Clerk showing that the ordinance was passed and approved, and when, and in what paper the same was published, or when, and by whom, and where the same was posted.

(1976 Code, § 1-608)

Statutory reference:

Related provisions, see Neb. RS 17-613

§ 33.33 EFFECTIVE DATE; EMERGENCY ORDINANCES.

(A) Except as provided in division (B) below, an ordinance for the government of the village which has been adopted by the governing body without submission to the voters of the village shall not go into effect until 15 days after the passage of the ordinance.

(B) In the case of riot, infectious or contagious diseases, or other impending danger, failure of a public utility, or other emergency requiring its immediate operation, the ordinance shall take effect upon the proclamation of the Chairperson and the posting thereof in at least three of the most public places in the village. The emergency ordinance shall recite the emergency, be passed by a three-fourths vote of the governing body, and entered of record on the Municipal Clerk's minutes.

(1976 Code, § 1-609) (Ord. 283, passed 12-8-1997)

Statutory reference:

Related provisions, see Neb. RS 17-613

§ 33.34 AMENDMENTS AND REVISIONS.

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that an ordinance revising all the ordinances of the village and modifications to zoning or building districts may be adopted as otherwise provided by law.

(1976 Code, § 1-610) (Ord. 284, passed 12-8-1997)

Statutory reference:

Related provisions, see Neb. RS 17-614

§ 33.35 PUBLICATION OF NOTICES.

If the village is required to publish a notice or advertisement in a legal newspaper in or of general circulation in the village, and if there is no legal newspaper in or of general circulation in the village,

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then the village shall publish such notice or advertisement in a legal newspaper in or of general circulation in the county in which the village is located. If there is no legal newspaper in or of general circulation in such county, then the village shall publish such notice or advertisement by posting a written or printed copy thereof in each of three public places in the village for the same period of time such city or village is required to publish the notice or advertisement in a legal newspaper.
(Ord. 486, passed 5-14-2018)

Statutory reference:

Related provisions, see Neb. RS 17-505.01

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CHAPTER 34: ELECTIONS

Section

- 34.01 Generally
- 34.02 Notice
- 34.03 Registered voters; qualifications
- 34.04 Special elections
- 34.05 Election of officers; certification
- 34.06 Partisan ballot; when allowed; requirements
- 34.07 Candidate filing forms; deadlines; filing officer
- 34.08 Filing fee
- 34.09 Caucus candidates
- 34.10 Petition, write-in, and other candidates for general election ballot; procedures
- 34.11 Recall procedure
- 34.12 Exit polls

Statutory reference:

Election Act, see Neb. RS 32-101

§ 34.01 GENERALLY.

(A) All village issues and offices shall be combined on the statewide primary and general election ballots whenever possible. The issuance of separate ballots shall be avoided in a statewide election if village offices or issues can reasonably be combined with the nonpartisan ballot and state law does not require otherwise. All village elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide primary or general election.

(Neb. RS 32-556)

(B) When the village holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act. Any other election held by the village shall be held as provided in the Election Act unless otherwise provided by the charter, code, or bylaws of the village.

(Neb. RS 32-404)

§ 34.02 NOTICE.

The notice of election required to be published by the Election Commissioner or County Clerk pursuant to Neb. RS 32-802 shall serve as the notice requirement for all village elections which are held in conjunction with the statewide primary or general election.

§ 34.03 REGISTERED VOTERS; QUALIFICATIONS.

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

REGISTERED VOTER. An elector who has a current voter registration record on file with the Election Commissioner or County Clerk in the county of his or her residence.
(Neb. RS 32-115)

(B) All registered voters residing within the corporate limits of the village on or before election day shall be entitled to vote at all village elections.

(Neb. RS 17-602)

Statutory reference:

Definition of elector, see Neb. RS 32-110

§ 34.04 SPECIAL ELECTIONS.

(A) (1) Except as provided in Neb. RS 77-3444, any issue to be submitted to the registered voters at a special election by the village shall be certified by the Village Clerk to the Election Commissioner or County Clerk at least 50 days prior to the election. A special election may be held by mail as provided in Neb. RS 32-952 through 32-959. Any other special election under this section shall be subject to division (B) of this section.

(2) In lieu of submitting the issue at a special election, the village may submit the issue at a statewide primary or general election or at any scheduled county election, except that no such issue shall be submitted at a statewide election or scheduled county election unless the issue to be submitted has been certified by the Village Clerk to the Election Commissioner or County Clerk by March 1 for the primary election and by September 1 for the general election.

(3) After the Election Commissioner or County Clerk has received the certification of the issue to be submitted, he or she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the Village Clerk shall be responsible for the publication or posting of any required special notice of the submission of the issue other than the notice required to be given of the statewide election issues. The Election Commissioner or County Clerk shall prepare the ballots and issue ballots for early voting and shall also conduct the submission of the issue, including the receiving

and counting of ballots on the issue. The election returns shall be made to the Election Commissioner or County Clerk. The ballots shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the County Canvassing Board, the Election Commissioner or County Clerk shall certify the election results to the Board of Trustees. The canvass by the County Canvassing Board shall have the same force and effect as if made by the Board of Trustees.

(Neb. RS 32-559)

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

(Neb. RS 32-405)

§ 34.05 ELECTION OF OFFICERS; CERTIFICATION.

No later than July 1 of each even-numbered year, the Village Board shall certify to the Secretary of State, the Election Commissioner, or the County Clerk, the name of the village, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office. The Secretary of State, Election Commissioner, and County Clerk shall prescribe the forms to be used for certification to him or her.

(Neb. RS 32-404)

§ 34.06 PARTISAN BALLOT; WHEN ALLOWED; REQUIREMENTS.

All elective village officers shall be nominated and elected on a nonpartisan basis unless the village provides for a partisan ballot by ordinance. No ordinance providing for nomination and election on a partisan ballot shall permit affiliation with any party not recognized as a political party for purposes of the Election Act. Such ordinance providing for nomination and election on a partisan ballot shall be adopted and effective not less than 60 days prior to the filing deadline.

(Neb. RS 32-557)

§ 34.07 CANDIDATE FILING FORMS; DEADLINES; FILING OFFICER.

(A) Any candidate for the Board of Trustees may place his or her name on the general election ballot by filing a candidate filing form prescribed by the Secretary of State as provided in division (B). If a candidate is an incumbent of an elective office, the filing period for filing the candidate filing form shall be between December 1 and July 15 prior to the date of the primary election. No incumbent who

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resigns from elective office prior to the expiration of his or her term shall file for any office after February 15 of that election year. All other candidates shall file for office between December 1 and August 1 prior to the date of the general election.
(Neb. RS 32-606)

(B) Candidate filing forms shall be filed in the office of the Election Commissioner or County Clerk.

(Neb. RS 32-607)

(Ord. 391, passed 12-12-2011)

Statutory reference:

Filling of vacancy on ballot, see Neb. RS 32-625 and 32-627

Withdrawal after filing, see Neb. RS 32-622

§ 34.08 FILING FEE.

(A) Except as provided in division (D) or (E) of this section, a filing fee shall be paid to the Village Treasurer by or on behalf of each candidate for village office prior to filing for office. The fee shall be placed in the general fund of the village. No candidate filing forms shall be filed until the proper payment or the proper receipt showing the payment of such filing fee is presented to the filing officer. On the day of the filing deadline, the Village Treasurer's office shall remain open to receive filing fees until the hour of the filing deadline.

(B) Except as provided in division (D) or (E) of this section, the filing fee shall be a sum equal to 1% of the annual salary such candidate will receive if he or she is elected and qualifies for the office for which he or she files as a candidate.

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

(D) No filing fee shall be required for any candidate filing for an office in which a per diem is paid rather than a salary or for which there is a salary of less than \$500 per year.

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(E) (1) No filing fee shall be required of any candidate completing an affidavit requesting to file for elective office in forma pauperis.

(2) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AVAILABLE RESOURCES. Includes every type of property or interest in property that an individual owns and may convert into cash except:

- (a) Real property used as a home;
- (b) Household goods of a moderate value used in the home; and
- (c) Assets to a maximum value of \$3,000 used by a recipient in a planned effort directed towards self-support.

PAUPER. A person whose income and other resources for maintenance are found under assistance standards to be insufficient for meeting the cost of his or her requirements and whose reserve of cash or other available resources does not exceed the maximum available resources that an eligible individual may own.

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

§ 34.09 CAUCUS CANDIDATES.

(A) The Board of Trustees may, by ordinance, call a caucus for the purpose of nomination of candidates for offices to be filled in the village election. This caucus shall be held at least ten days before the filing deadline for that election, and the Board of Trustees shall publish notice of the caucus in at least one newspaper of general circulation in the county at least once each week for two consecutive weeks before the caucus.
(Neb. RS 17-601.01)

(B) The chairperson of the caucus at which candidates are nominated shall notify in writing the Village Clerk of the candidates so nominated, not later than two days following the caucus. The Village Clerk shall then notify the persons so nominated of their nomination, this notification to take place not later than five days after the caucus. No candidate so nominated shall have his or her name placed upon the ballot unless, not more than ten days after the holding of the caucus, he or she files with the Village Clerk a written statement accepting the nomination of the caucus and pays the filing fee, if any, for the office for which he or she was nominated.
(Neb. RS 17-601.02)

(C) The provisions of this section shall not preclude in any manner any person from filing for the offices to which this section is applicable, either by direct filing or by petition.
(Neb. RS 17-601.03)

§ 34.10 PETITION, WRITE-IN, AND OTHER CANDIDATES FOR GENERAL ELECTION BALLOT; PROCEDURES.

(A) (1) Any registered voter who was not a candidate in the primary election and who was not registered to vote with a party affiliation on or before March 1 and before the general election in the calendar year of the general election may have his or her name placed on the general election ballot for a partisan office by filing petitions as prescribed in this section and Neb. RS 32-621 or by nomination by political party convention or committee pursuant to Neb. RS 32-627 or 32-710.

(2) Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot if a vacancy exists on the ballot under Neb. RS 32-625(2) and the candidate files for the office by petition as prescribed in divisions (B) and (C) of this section, files as a write-in candidate as prescribed in Neb. RS 32-615, or is nominated by political party convention or committee pursuant to Neb. RS 32-710. (Neb. RS 32-616)

(B) Petitions for nomination shall conform to the requirements of Neb. RS 32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. A sample copy of the petition shall be filed with the filing officer prior to circulation. Petitions shall be signed by registered voters residing in the village, if candidates are chosen at large, or in the ward in which the officer is to be elected, if candidates are chosen by ward, and shall be filed with the filing officer in the same manner as provided for candidate filing forms in § 34.07. Petition signers and petition circulators shall conform to the requirements of Neb. RS 32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing the payment of the filing fee required pursuant to Neb. RS 32-608. The petitions shall be filed by September 1 in the year of the general election.
(Neb. RS 32-617)

(C) (1) The number of signatures of registered voters needed to place the name of a candidate upon the nonpartisan ballot for the general election shall be at least 10% of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election in the municipality or in the ward in which the officer is to be elected, not to exceed 2,000.

(2) The number of signatures of registered voters needed to place the name of a candidate upon the partisan ballot for the general election shall be at least 10% of the registered voters entitled to vote for the office.
(Neb. RS 32-618)
(Ord. 398, passed 12-12-2011; Ord. 470, passed 6-9-2017)

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§ 34.11 RECALL PROCEDURE.

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

FILING CLERK. The Election Commissioner or County Clerk.
(Neb. RS 32-1301)

(B) Any member of the Board of Trustees may be removed from office by recall pursuant to this section.
(Neb. RS 32-1302)

(C) (1) A petition demanding that the question of removing a member of the Board of Trustees be submitted to the registered voters shall be signed by registered voters equal in number to at least 45% of the total vote cast for the person receiving the most votes for that office in the last general election. The signatures shall be affixed to petition papers and shall be considered part of the petition.

(2) Petition circulators shall conform to the requirements of Neb. RS 32-629 and 32-630.

(3) The petition papers shall be procured from the filing clerk. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the filing clerk by at least one registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The affidavit shall state the name and office of the Trustee sought to be removed, shall include in typewritten form in concise language of 60 words or less the reason or reasons for which recall is sought, and shall request that the filing clerk issue initial petition papers to the principal circulator for circulation. The filing clerk shall notify the Trustee by any method specified in Neb. RS 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in Neb. RS 25-505.01, by leaving a copy of the affidavit at the Trustee's usual place of residence and mailing a copy by first-class mail to the Trustee's last-known address. If the Trustee chooses, he or she may submit a defense statement in typewritten form in concise language of 60 words or less for inclusion on the petition. Any such defense statement shall be submitted to the filing clerk within 20 days after the Trustee receives the copy of the affidavit. The principal circulator or circulators shall gather the petition papers within 20 days after the receipt of the official's defense statement. The filing clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within 30 days from the date of issuing the petitions.

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(4) The filing clerk, upon issuing the initial petition papers or any subsequent petition papers, shall enter in a record, to be kept in his or her office, the name of the principal circulator or circulators to whom the papers were issued, the date of issuance, and the number of papers issued. The filing clerk shall certify on the papers the name of the principal circulator or circulators to whom the papers were issued and the date they were issued. No petition paper shall be accepted as part of the petition unless it bears such certificate. The principal circulator or circulators who check out petitions from the filing clerk may distribute such petitions to persons who may act as circulators of such petitions.

(5) Petition signers shall conform to the requirements of Neb. RS 32-629 and 32-630. Each signer of a recall petition shall be a registered voter and qualified by his or her place of residence to vote for the office in question.
(Neb. RS 32-1303)

(D) Each petition paper shall conform to the requirements of Neb. RS 32-1304.

(E) (1) The principal circulator or circulators shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the filing clerk within 30 days after the filing clerk issues the initial petition papers to the principal circulator or circulators as provided in division (C) of this section.

(2) Within 15 days after the filing of the petition, the filing clerk shall ascertain whether or not the petition is signed by the requisite number of registered voters. No new signatures may be added after the initial filing of the petition papers. No signatures may be removed unless the filing clerk receives an affidavit signed by the person requesting his or her signature be removed before the petitions are filed with the filing clerk for signature verification. If the petition is found to be sufficient, the filing clerk shall attach to the petition a certificate showing the result of such examination. If the requisite number of signatures has not been gathered, the filing clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose.
(Neb. RS 32-1305)

(F) (1) If the recall petition is found to be sufficient, the filing clerk shall notify the Trustee whose removal is sought and the Board of Trustees that sufficient signatures have been gathered. Notification of the Trustee may be by any method specified in Neb. RS 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in Neb. RS 25-505.01, by leaving such notice at the Trustee's usual place of residence and mailing a copy by first-class mail to the Trustee's last-known address.

(2) The Board of Trustees shall order an election to be held not less than 30 nor more than 75 days after the notification of the Trustee whose removal is sought under division (F)(1) of this section, except that if any other election is to be held in the village within 90 days after such notification, the Board shall provide for the holding of the recall election on the same day. All resignations shall be tendered as provided in Neb. RS 32-562. If the Trustee whose removal is sought resigns before the recall

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election is held, the Board may cancel the recall election if the Board notifies the election commissioner or county clerk of the cancellation at least 16 days prior to the election, otherwise the recall election shall be held as scheduled.

(3) If the Board of Trustees fails or refuses to order a recall election within the time required, the election may be ordered by the district court having jurisdiction over a county in which the Trustee serves. If a filing clerk is subject to a recall election, the Secretary of State shall conduct the recall election.

(Neb. RS 32-1306)

(G) The form of the official ballot at a recall election held pursuant to division (F) of this section shall conform to the requirements of Neb. RS 32-1307.

(H) (1) If a majority of the votes cast at a recall election are against the removal of the Trustee named on the ballot or the election results in a tie, the Trustee shall continue in office for the remainder of his or her term but may be subject to further recall attempts as provided in division (I) of this section.

(2) If a majority of the votes cast at a recall election are for the removal of the Trustee named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the Trustee is deemed removed, the removal shall result in a vacancy in the office which shall be filled as otherwise provided in this section and Neb. RS 32-567 to 32-570.

(3) If the election results show a margin of votes equal to 1% or less between the removal or retention of the Trustee in question, the Secretary of State, Election Commissioner, or County Clerk shall order a recount of the votes cast unless the Trustee files a written statement with the filing clerk that he or she does not want a recount.

(4) If there are vacancies in the offices of a majority or more of the members of the Board of Trustees at one time due to the recall of such members, a special election to fill such vacancies shall be conducted as expeditiously as possible by the Secretary of State, Election Commissioner, or County Clerk.

(5) No Trustee who is removed at a recall election or who resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal or the removal of any other member of the Board of Trustees during the remainder of his or her term of office.

(Neb. RS 32-1308)

(I) No recall petition shall be filed against an elected Trustee within 12 months after a recall election has failed to remove him or her from office or within six months after the beginning of his or her term of office or within six months prior to the incumbent filing deadline for the office.

(Neb. RS 32-1309)

(Ord. 400, passed 12-12-2011)

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§ 34.12 EXIT POLLS.

No person shall conduct an exit poll, a public opinion poll, or any other interview with voters on election day seeking to determine voter preference within 20 feet of the entrance of any polling place, or, if inside the polling place or building, within 100 feet of any voting booth.
(Neb. RS 32-1525) Penalty, see § 10.99

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CHAPTER 35: TAX AND FINANCE

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GENERAL PROVISIONS**§ 35.01 DEFINITIONS.**

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

BIENNIAL BUDGET. A budget by the village that provides for a biennial period to determine and carry on the village's financial and taxing affairs.

BIENNIAL PERIOD. The two fiscal years comprising a biennium commencing in odd-numbered or even-numbered years used by the village in determining and carrying on its financial and taxing affairs.

PUBLIC FUNDS. All money, including non-tax money, used in the operation and functions of governing bodies. If the village has a lottery established under the Nebraska County and Village Lottery Act, only those net proceeds which are actually received by the village from a licensed lottery operator shall be considered **PUBLIC FUNDS**, and **PUBLIC FUNDS** shall not include amounts awarded as prizes.

(Neb. RS 13-503) (Ord. 442, passed 4-14-2014)

§ 35.02 ANNUAL AUDIT; FINANCIAL STATEMENTS.

(A) (1) For the purpose of this division (A), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCOUNTANT. A duly licensed public accountant or certified public accountant who otherwise is not an employee of or connected in any way with the village.

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ANNUAL AUDIT REPORT. The written report of the accountant and all appended statements and schedules relating thereto presenting or recording the findings of an examination or audit of the financial transactions, affairs, or financial condition of the village and its proprietary functions for the fiscal year immediately prior to the making of the annual report.

FISCAL YEAR. The fiscal year for the village or the fiscal year established in Neb. RS 18-2804 for a proprietary function if different than the village fiscal year.
(Neb. RS 19-2902)

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(2) The Board of Trustees shall cause an audit of the village's accounts to be made by a recognized independent and qualified accountant as expeditiously as possible following the close of the fiscal year and to cover all financial transactions and affairs of the village for that preceding fiscal year. The audit shall be made on a cash or accrual method at the discretion of the Board of Trustees. The audit shall be completed and the annual audit report made by the accountant shall be submitted within six months after the close of the fiscal year in any event, unless an extension of time is granted by a written resolution adopted by the Board of Trustees. The Board of Trustees may request a waiver of the audit requirement subject to the requirements of Neb. RS 84-304. If the village is required to conduct an audit under Neb. RS 84-304 and owns or operates any type of public utility or other enterprise which substantially generates its own revenue, the Board of Trustees shall have that phase of the village's affairs reported separately from the other functions of the village. The result of that audit shall appear separately in the annual audit report made by the accountant to the village, and the audit shall be on a cash or accrual basis at the discretion of the Board of Trustees.
(Neb. RS 19-2903)

(3) The annual audit report shall set forth, insofar as possible, the financial position and results of financial operations for each fund or group of accounts of the village. When the accrual method is selected for the annual audit report, the report shall be in accordance with generally accepted accounting principles. The annual audit report shall also include the professional opinion of the accountant with respect to the financial statements, or, if an opinion cannot be expressed, a declaration that the accountant is unable to express such an opinion with an explanation of the reasons why he or she cannot do so.
(Neb. RS 19-2904)

(4) At least three copies of such annual audit report shall be properly signed and attested by the accountant; two copies shall be filed with the Village Clerk, and one copy shall be filed with the Auditor of Public Accounts. The annual audit report filed, together with any accompanying comment or explanation, shall become a part of the public records of the Village Clerk and shall at all times thereafter be open and subject to public inspection.
(Neb. RS 19-2905)

(B) The Board of Trustees shall provide and file with the Village Clerk, not later than August 1 of each year, financial statements showing the village's actual and budgeted figures for the most recently completed fiscal year.
(Neb. RS 13-606)

Statutory reference:

Other provisions on audits, Neb. RS 19-2906 through 19-2909

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§ 35.03 CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS.

(A) Except as provided in Neb. RS 18-412.01, no contract for enlargement or general improvements, such as water extensions, sewers, public heating systems, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, costing over \$30,000, shall be made unless it is first approved by the Board of Trustees .

(B) Except as provided in Neb. RS 18-412.01, before the Board of Trustees makes any contract in excess of \$30,000 for enlargement or general improvements, such as water extensions, sewers, public heating systems, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, an estimate of the cost shall be made by village engineer and submitted to the Board of Trustees. In advertising for bids as provided in divisions (C) and (E) of this section, the Board of Trustees may publish the amount of the estimate.

(C) Advertisements for bids shall be required for any contract costing over \$30,000 entered into:

(1) For enlargement or general improvements, such as water extensions, sewers, public heating systems, bridges, work on streets, or any other work or improvement when the cost of the enlargement or improvement is assessed to the property; or

(2) For the purchase of equipment used in the construction of the enlargement or general improvements.

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

(1) \$30,000 or less;

(2) \$60,000 or less and the city electric utility has gross annual revenue from retail sales in excess of \$1,000,000;

(3) \$90,000 or less and the city electric utility has gross annual revenue from retail sales in excess of \$5,000,000; or

(4) \$120,000 or less and the city electric utility has gross annual revenue from retail sales in excess of \$10,000,000.

(E) The advertisement provided for in division (C) of this section shall be published at least seven days prior to the bid closing in a legal newspaper in or of general circulation in the municipality. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods,

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snow, war, or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of or serious injury or damage to life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by Neb. RS 17-613 when adopted by a three-fourths vote of the Board of Trustees and entered of record.

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

(G) If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the Board of Trustees or Board of Public Works, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the village, the Board of Trustees or Board of Public Works may authorize the manufacture and assemblage of those materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer. (Neb. RS 17-568.01)

(H) Any bidding procedure may be waived by the Board of Trustees or Board of Public Works:

(1) When materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in Neb. RS 81-145 through 81-162;

(2) When the contract is negotiated directly with a sheltered workshop pursuant to Neb. RS 48-1503; or

(3) When required to comply with any federal grant, loan, or program.
(Neb. RS 17-568.02)

(I) (1) Notwithstanding any other provisions of law or a home rule charter, a village which has established, by an interlocal agreement with any county, a joint purchasing division or agency may purchase personal property without competitive bidding if the price for the property has been established by the federal General Services Administration or the materiel division of the Department of Administrative Services.

(2) For the purpose of this division (I), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PERSONAL PROPERTY. Includes but is not limited to supplies, materials, and equipment used by or furnished to any officer, office, department, institution, board, or other agency.

PURCHASING or PURCHASE. The obtaining of personal property by sale, lease, or other contractual means.

(Neb. RS 18-1756)

(Ord. 395, passed 12-12-2011; Ord. 490, passed 5-14-2018)

Statutory reference:

Requirements for public lettings, see Neb. RS 73-101 et seq.

§ 35.04 ORDERS OR WARRANTS FOR MONEY; CONTRACTS; EXPENDITURES; REQUIREMENTS.

(A) The Board of Trustees shall have no power to appropriate, issue, or draw any order or warrant on the Village Treasurer for money, unless the same has been appropriated or ordered by ordinance, or the claim for the payment of which such order or warrant is issued has been allowed according to the provisions of § 35.05, and funds for the class or object out of which such claim is payable have been included in the adopted budget statement or transferred according to law.

(Neb. RS 17-708)

(B) No contract shall be hereafter made by the Board of Trustees, or any committee or member thereof, and no expense shall be incurred by any of the officers or departments of the village, whether the object of the expenditures shall have been ordered by the Board of Trustees or not, unless an appropriation shall have been previously made concerning such expense, except as otherwise expressly provided in division (A).

(Neb. 17-709)

(C) All warrants drawn upon the Village Treasurer must be signed by the Chairperson and countersigned by the Village Clerk, stating the particular fund to which the same is chargeable, the person to whom payable, and for what particular object. No money shall be otherwise paid than upon such warrants so drawn. Each warrant shall specify the amount included in the adopted budget statement for such fund upon which it is drawn and the amount already expended of such fund.

(Neb. 17-711)

§ 35.05 CLAIMS AND ACCOUNTS PAYABLE.

(A) (1) All liquidated and unliquidated claims and accounts payable against the village shall:

(a) Be presented in writing;

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(b) State the name and address of the claimant and the amount of the claim; and

(c) Fully and accurately identify the items or services for which payment is claimed or the time, place, nature, and circumstances giving rise to the claim.

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(2) As a condition precedent to maintaining an action for a claim, other than a tort claim as defined in Neb. RS 13-903, the claimant shall file such claim within 90 days of the accrual of the claim in the office of the Village Clerk.

(3) The Village Clerk shall notify the claimant or his or her agent or attorney by letter mailed to the claimant's address within five days if the claim is disallowed by the Board of Trustees.

(4) No costs shall be recovered against the village in any action brought against it for any claim or for any claim allowed in part which has not been presented to the Board of Trustees to be audited, unless the recovery is for a greater sum than the amount allowed with the interest due. (Neb. RS 17-714)

(B) Upon the allowance of claims by the Board of Trustees, the order for their payment shall specify the particular fund or appropriation out of which they are payable as specified in the adopted budget statement; and no order or warrant shall be drawn in excess of 85% of the current levy for the purpose for which it is drawn, unless there is sufficient money in the treasury at the credit of the proper fund for its payment; provided that if there exists at the time such warrant is drawn, obligated funds from the federal government or the state, or both from the federal government and the state, for the general purpose or purposes of such warrant, then such warrant may be drawn in excess of 85% of the current levy for the purpose for which it is drawn to the additional extent of 100% of such obligated federal or state funds. No claim shall be audited or allowed unless an order or warrant for the payment thereof may legally be drawn. (Neb. RS 17-715)

§ 35.06 COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE.

(A) The village shall have authority to collect the special assessments which it levies and to perform all other necessary functions related thereto including foreclosure.

(B) The Board of Trustees of any village collecting its own special assessments shall direct that notice that special assessments are due shall be mailed or otherwise delivered to the last known address of the person against whom those special assessments are assessed or to the lending institution or other party responsible for paying those special assessments. Failure to receive the notice shall not relieve the taxpayer from any liability to pay the special assessments and any interest or penalties accrued thereon.

(C) A village collecting its own assessments shall:

(1) File notice of the assessments and the amount of assessment being levied for each lot or tract of land to the Register of Deeds; and

(2) File a release of assessment upon final payment of each assessment with the Register of Deeds.

(Neb. RS 18-1216)

Statutory reference:

Refunding erroneously paid special assessments, see Neb. RS 17-703

§ 35.07 SPECIAL ASSESSMENT FUND.

All money received on special assessments shall be held by the Village Treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made, and this money shall be used for no other purpose whatever, unless to reimburse the village for money expended for any such improvement.

(Neb. RS 17-710)

§ 35.08 SINKING FUNDS; GIFTS OF MONEY OR PROPERTY.

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

(Neb. RS 19-1301)

(B) The Board of Trustees, subject to all the limitations set forth in this section, shall have the power to levy a tax of not to exceed \$0.105 on each \$100 in any one year upon the taxable value of all the taxable property within the village for a term of not to exceed ten years, in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the village, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, original equipment, or repair, not including maintenance, of any one or more of the following public improvements, including acquisition of any land incident to the making thereof: village library; village auditorium or community house for social or recreational purposes; village hall; village public library, auditorium, or community house in a single building; village swimming pool and appurtenances thereto; village jail; village building to house equipment or personnel of a fire department, together with firefighting equipment or apparatus; village park; village cemetery; village medical clinic building, together with furnishings and equipment; or village hospital. The village shall not be authorized to levy

the tax or to establish the sinking fund as provided in this division if, having bonded indebtedness, such village has been in default in the payment of interest thereon or principal thereof for a period of ten years prior to the date of the passage of the resolution providing for the submission of the proposition for establishment of the sinking fund as required in division (C).
(Neb. RS 19-1302)

(C) Before any sinking fund or funds are established or before any annual tax is levied for any such planned village improvement mentioned in division (B) by the village, the Board of Trustees shall declare its purpose by resolution to submit to the qualified electors of the village at the next general village election the proposition to provide the village with the specific village improvement planned for consummation under this section. The resolution of submission shall, among other things, set forth a clear description of the improvement planned, the estimated cost according to the prevailing costs, the amount of annual levy over a definite period of years, not exceeding ten years, required to provide such cost, and the specific name or designation for the sinking fund sought to be established to carry out the planned improvement, together with a statement of the proposition for placement upon the ballot at the election. Notice of the submission of the proposition, together with a copy of the official ballot containing the same, shall be published in its entirety three successive weeks before the day of the election in a legal newspaper published in the village or, if no legal newspaper is published therein, in some legal newspaper published in the county in which the village is located and of general circulation. If no legal newspaper is published in the county, such notice shall be published in some legal newspaper of general circulation in the county in which the village is located. No such sinking fund shall be established unless the same has been authorized by a majority or more of the legal votes of the village cast for or against the proposition. If less than a majority of the legal votes favor the establishment of the sinking fund, the planned improvement shall not be made, no annual tax shall be levied therefor, and no sinking fund or sinking funds shall be established in connection therewith, but such resolution of submission shall immediately be repealed. If the proposition shall carry at such election in the manner prescribed in this division, the Board of Trustees and its successors in office shall proceed to do all things authorized under such resolution of submission but never inconsistent with this section. Provisions of the statutes of this state relating to election of officers, voting places, election apparatus and blanks, preparation and form of ballots, information to voters, delivery of ballots, conduct of elections, manner of voting, counting of votes, records and certificates of elections, and recounts of votes, so far as applicable, shall apply to voting on the proposition under this section.
(Neb. RS 19-1303)

(D) All funds received by the Village Treasurer, by donation or by tax levy, as hereinbefore provided, shall, as they accumulate, be immediately invested by the Treasurer, with the written approval of the Board of Trustees, in the manner provided in § 35.11. Whenever investments of such sinking fund or funds are made, as aforesaid, the nature and character of the same shall be reported to the Board of Trustees, and the investment report shall be made a matter of record by the Village Clerk in the proceedings of the Village Board. The sinking fund, or sinking funds, accumulated under the provisions of this section, shall constitute a special fund, or funds, for the purpose or purposes for which the same was authorized and shall not be used for any other purpose unless authorized by 60% of the qualified

electors of the village voting at a general election favoring such change in the use of the sinking fund or sinking funds; provided that the question of the change in the use of the sinking fund or sinking funds, when it fails to carry, shall not be resubmitted in substance for a period of one year from and after the date of such election.

(Neb. RS 19-1304)

Statutory reference:

Additional levy limitations, see Neb. RS 17-702

§ 35.09 DEPOSIT OF FUNDS.

(A) (1) The Village Treasurer shall deposit, and at all times keep on deposit, for safekeeping, in banks, capital stock financial institutions, or qualifying mutual financial institutions of approved and responsible standing, all money collected, received, or held by him or her as Village Treasurer. These deposits shall be subject to all regulations imposed by law or adopted by the Board of Trustees for the receiving and holding thereof. The fact that a stockholder, director, or other officer of the bank, capital stock financial institution, or qualifying mutual financial institution is also serving as a member of the Board of Trustees or as any other officer of the village shall not disqualify the bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for the village funds.

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

(Neb. RS 17-607)

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

(Neb. RS 77-2362)

(C) Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions. Neb. RS 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

(Neb. RS 17-607 and 77-2362)

Statutory reference:

Other provisions on deposits of public funds, see Neb. RS 77-2363 and 77-2364

Public Funds Deposit Security Act, see Neb. RS 77-2386

§ 35.10 CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS.

The Village Treasurer may, upon resolution of the Board of Trustees authorizing the same, purchase certificates of deposit from and make time deposits in any bank, capital stock financial institution, or qualifying mutual financial institution in the state to the extent that those certificates of deposit or time deposits are insured or guaranteed by the Federal Deposit Insurance Corporation. Deposits may be made in excess of the amounts so secured by the corporation, and the amount of the excess deposit shall be secured by a bond or by security given in the same manner as is provided for cities of the first class in Neb. RS 16-714 through 16-716 as of the time the deposit is made. Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions. Neb. RS 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.
(Neb. RS 17-720)

§ 35.11 INVESTMENT AND USE OF SURPLUS FUNDS.

(A) When the Village Treasurer holds funds of the village in excess of the amount required for maintenance or set aside for betterments and improvements, the Board of Trustees may, by resolution, direct and authorize the Treasurer to invest the surplus funds in the outstanding bonds or registered warrants of the village, bonds and debentures issued either singly or collectively by any of the 12 federal land banks, the 12 intermediate credit banks, or the 13 banks for cooperatives under the supervision of the Farm Credit Administration, or in interest-bearing bonds or the obligations of the United States. The interest on such bonds or warrants shall be credited to the fund out of which the bonds or warrants were purchased.
(Neb. RS 17-608)

(B) All income received by the village from public utilities and from the payment and collection of water taxes, rents, rates or assessments shall be applied to the payment of running expenses, interest on bonds or money borrowed and the erection and construction of public utilities; should there be any surplus, it shall be annually created into a sinking fund for the payment of public utility bonds or for the improvements of the works, or into the general fund as the Board may direct. The surplus remaining, if any, may, if the Board, be invested in interest-bearing bonds or obligations of the United States.
(Neb. RS 17-540)

(C) The Board of Trustees may, by resolution, direct and authorize the Treasurer to dispose of the surplus electric light, water, or gas funds, or the funds arising from the sale of electric light, water, or natural gas distribution properties, by the payment of outstanding electric light, water, or gas distribution bonds or water warrants then due. The excess, if any, after such payments, may be transferred to the general fund of the village.
(Neb. RS 17-609)

(D) (1) Whenever the village has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due

during the current year, the Board of Trustees may invest any such surplus in excess of current needs or such excess in its sinking fund in certificates of deposit, in time deposits, and in any securities in which the State Investment Officer is authorized to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. The State Investment Officer shall upon request furnish a copy of current authorized investment guidelines of the Nebraska Investment Council.

(2) Nothing in division (D)(1) shall be construed to authorize investments in venture capital. (Neb. RS 77-2341)

§ 35.12 BOND ISSUES.

The Board of Trustees may, after meeting all the requirements of state law, issue bonds, fund bonds, and retire bonds for such purposes as may be permitted by state law. The Board of Trustees shall have the authority to levy special assessments for the payment of interest and principal on these bonds and may spread the payments up to the maximum number of years permitted by state law.

Statutory reference:

Bonds in general, see Neb. RS 18-1801 through 18-1805

General provisions, see Neb. RS 10-101 through 10-143

§ 35.13 DEBT COLLECTION; AUTHORITY TO CONTRACT WITH COLLECTION AGENCY.

(A) The village may contract to retain a collection agency licensed pursuant to Neb. RS 45-601 through 45-622, within or without this state, for the purpose of collecting public debts owed by any person to the village.

(B) No debt owed pursuant to division (A) of this section may be assigned to a collection agency unless:

(1) There has been an attempt to advise the debtor by first-class mail, postage prepaid, at the last known address of the debtor:

(a) Of the existence of the debt; and

(b) That the debt may be assigned to a collection agency for collection if the debt is not paid; and

(2) At least 30 days have elapsed from the time the notice was sent.

(C) A collection agency which is assigned a debt under this section shall have only those remedies and powers which would be available to it as an assignee of a private creditor.

(D) For purposes of this section, debt shall include all delinquent fees or payments except delinquent property taxes on real estate. In the case of debt arising as a result of an order or judgment of a court in a criminal or traffic matter, a collection fee may be added to the debt. The collection fee shall be \$25 or 4.5% of the debt, whichever is greater. The collection fee shall be paid by the person who owes the debt directly to the person or agency providing the collection service.

(Neb. RS 45-623)

§ 35.14 CREDIT CARDS; AUTHORITY TO ACCEPT.

(A) If authorized by the Board of Trustees, any village official may accept credit cards, charge cards, or debit cards, whether presented in person or electronically, or electronic funds transfers as a method of cash payment of any tax, levy, excise, duty, custom, toll, interest, penalty, fine, license, fee, or assessment of whatever kind or nature, whether general or special, as provided by Neb. RS 77-1702.

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

(C) With respect to a facility which it operates in a proprietary capacity, the Board of Trustees may choose to accept credit cards, charge cards, or debit cards, whether presented in person or electronically, or electronic funds transfers as a means of cash payment and may adjust the price for services to reflect the handling and payment costs.

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

(E) The types of credit cards, charge cards, or debit cards accepted and the payment services provided shall be determined by the State Treasurer and the Director of Administrative Services with the advice of a committee convened by the State Treasurer and the director. The committee shall consist of the State Treasurer, the Tax Commissioner, the director, and representatives from counties, cities, and other political subdivisions as may be appropriate. The committee shall develop recommendations for the contracting of such services. The State Treasurer and the director shall contract with one or more credit card, charge card, or debit card companies or third-party merchant banks for services on behalf of the state and those counties, cities, and political subdivisions that choose to participate in the state contract for such services. The State Treasurer and the director shall consider, for purposes of this section, any negotiated discount, processing, or transaction fee imposed by a credit card, charge card, or debit card company or third-party merchant bank as an administrative expense. If the Board of

Trustees chooses not to participate in the state contract, it may choose types of credit cards, charge cards, and debit cards and may negotiate and contract independently or collectively as a governmental entity with one or more financial institutions, vending service companies, credit card, charge card, or debit card companies, or third-party merchant banks for the provision of these services.

(F) Subject to the direction of the Board of Trustees, a village official authorizing acceptance of credit card or charge card payments shall be authorized but not required to impose a surcharge or convenience fee upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to the village, but the surcharge or convenience fee shall not exceed the surcharge or convenience fee imposed by the credit card or charge card companies or third-party merchant banks which have contracted under division (E) of this section. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to the village by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of the surcharge or convenience fee shall be deemed voluntary by that person and shall be in no case refundable. If a payment is made electronically by credit card, charge card, debit card, or electronic funds transfer as part of a system for providing or retrieving information electronically, the village official shall be authorized but not required to impose an additional surcharge or convenience fee upon the person making a payment.

(G) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

ELECTRONIC FUNDS TRANSFER. The movement of funds by nonpaper means, usually through a payment system, including, but not limited to, an automated clearinghouse or the Federal Reserve's Fedwire system.
(Neb. RS 13-609)

§ 35.15 MASTER FEE SCHEDULE.

The Board of Trustees is specifically authorized to adopt from time to time by resolution a master fee schedule, which master fee schedule shall include but not be limited to, returned check fees, copy fees, faxing fees, certified copy fees, water per gallon charges, peddler permits, tobacco licenses, equipment rental fees, cemetery lot fees, code enforcement fees, dog and cat license fees and mobile home park fees. The master fee schedule is on file in the office of the village clerk.
(Ord. 375, passed 5-10-210)

Cross-reference:

Late fee, see § 50.04

ANNUAL BUDGET

§ 35.25 FISCAL YEAR.

The fiscal year of the village and any public utility of the village commences on October 1 and extends through the following September 30 except as provided in the Municipal Proprietary Function Act.

(Neb. RS 17-701)

§ 35.26 BUDGET PROCEDURES.

The budget instruction manual prepared by the Auditor of Public Accounts is incorporated by reference for the purpose of proper budget preparation.

§ 35.27 EXPENDITURES PRIOR TO ADOPTION OF BUDGET.

(A) On and after the first day of its fiscal year in 1993 and of each succeeding year or on or after the first day of its biennial period and until the adoption of the budget by the Board of Trustees in September, the Board of Trustees may expend any balance of cash on hand for the current expenses of the village. Except as provided in division (B) of this section, the expenditures shall not exceed an amount equivalent to the total amount expended under the last budget in the equivalent period of the prior budget year or biennial period. The expenditures shall be charged against the appropriations for each individual fund or purpose as provided in the budget when adopted.

(Neb. RS 13-509.01)

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

(Neb. RS 13-509.02)

(Ord. 436, passed 1-13-2014)

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§ 35.28 PROPOSED BUDGET STATEMENT; CONTENTS; AVAILABILITY; CORRECTION.

(A) The Board of Trustees shall annually or biennially prepare a proposed budget statement on forms prescribed and furnished by the Auditor of Public Accounts. The proposed budget statement shall be made available to the public prior to publication of the notice of the hearing on the proposed budget statement pursuant to Neb. RS 31-506. A proposed budget statement shall contain the following information, except as provided by state law:

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

(2) For the current fiscal year or biennial period, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds and separately stated as to each such source: the actual unencumbered cash balance available at the beginning of the year or biennial period; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. This statement shall contain the cash reserve for each fiscal year or biennial period and shall note whether or not the reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years or biennial periods. The cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;

(3) For the immediately ensuing fiscal year or biennial period, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: the actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year or biennial period; the amounts proposed to be expended during the year or biennial period; and the amount of cash reserve, based on actual experience of prior years or biennial periods, which cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;

(4) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property:

(a) For the purpose of paying the principal or interest on bonds issued by the Board of Trustees; and

(b) For all other purposes.

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

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(6) A list of the proprietary functions which are not included in the budget statement. These proprietary functions shall have a separate budget statement which is approved by the Board of Trustees as provided in the Municipal Proprietary Function Act.

(B) The actual or estimated unencumbered cash balance required to be included in the budget statement by this section shall include deposits and investments of the village as well as any funds held by the County Treasurer for the village and shall be accurately stated on the proposed budget statement.

(C) The village shall correct any material errors in the budget statement detected by the Auditor of Public Accounts or by other sources.
(Neb. RS 13-504)

(D) The estimated expenditures plus the required cash reserve for the ensuing fiscal year or biennial period less all estimated and actual unencumbered balances at the beginning of the year or biennial period and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property shall equal the amount to be received from taxes, and that amount shall be shown on the proposed budget statement pursuant to this section. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year or biennial period.
(Neb. RS 13-505) (Ord. 435, passed 1-13-2014)

§ 35.29 PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF TAX AMOUNT.

(A) The Board of Trustees shall each year or biennial period conduct a public hearing on its proposed budget statement. Notice of the place and time of the hearing, together with a summary of the proposed budget statement, shall be published at least four calendar days prior to the date set for the hearing in a newspaper of general circulation within the village's jurisdiction. When the total operating budget, not including reserves, does not exceed \$10,000 per year or \$20,000 per biennial period, the proposed budget summary may be posted at the Village Office.

(B) After the hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of the hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. The certification of the amount to be received from personal and real property taxation shall specify separately the amount to be applied to the payment of principal or interest on bonds issued by the Board of Trustees and the amount to be received for all other purposes.

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(C) If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of the changes shall be published within 20 calendar days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed, and the reasons for the changes.

(D) Upon approval by Board of Trustees, the budget shall be filed with the Auditor of Public Accounts. The Auditor may review the budget for errors in mathematics, improper accounting, and noncompliance with the Nebraska Budget Act or Neb. RS 13-518 to 13-522. If the Auditor detects such errors, he or she shall immediately notify the village of such errors. The village shall correct any such error as provided in Neb. RS 13-511. Warrants for the payment of expenditures provided in the budget adopted under this section shall be valid notwithstanding any errors or noncompliance for which the Auditor has notified the village.
(Neb. RS 13-506)

(E) When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase.
(Neb. RS 13-507)
(Ord. 443, passed 4-14-2014; Ord. 488, passed 5-14-2018)

§ 35.30 ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION OF AMOUNT OF TAX.

(A) (1) After publication and hearing on the proposed budget statement and within the time prescribed by law, the Board of Trustees shall file with and certify to the levying board or boards on or before September 20 of each year or September 20 of the final year of a biennial period and file with the Auditor of Public Accounts a copy of the adopted budget statement which complies with Neb. RS 13-518 to 13-522, together with the amount of the tax required to fund the adopted budget, setting out separately:

(a) The amount to be levied for the payment of principal or interest on bonds issued by the Board of Trustees; and

(b) The amount to be levied for all other purposes.

(2) Proof of publication shall be attached to the statements.

(B) If the prime rate published by the Federal Reserve is 10% or more at the time of filing and certification required in this subsection, the Board of Trustees, in certifying the amount required, may make allowance for delinquent taxes not exceeding 5% of the amount required plus the actual percentage of delinquent taxes for the preceding tax year or biennial period and for the amount of estimated tax loss

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from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year or biennial period which is still pending. Except for such allowances, the Board of Trustees shall not certify an amount of tax more than 1% greater or lesser than the amount determined under municipal ordinance.

(C) The Board of Trustees shall use the certified taxable values as provided by the County Assessor pursuant to Neb. RS 13-509 for the current year in setting or certifying the levy. The Board of Trustees may designate one of its members to perform any duty or responsibility required of the Board by this section.

(Neb. RS 13-508) (Ord. 437, passed 1-13-2014; Ord. 489, passed 5-14-2018)

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§ 35.31 APPROPRIATION BILL.

The Board of Trustees shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed, "The Annual Appropriation Bill," in which the Board may appropriate those sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the village.
(Neb. RS 17-706)

§ 35.32 GENERAL FUND.

If the village has not decided to follow the all-purpose levy method of financing for the fiscal year, all money not specifically appropriated in the annual appropriation bill shall be deposited in and known as the General Fund.

§ 35.33 TRANSFER OF FUNDS.

(A) Whenever during the current fiscal year it becomes apparent to the Board of Trustees that due to unforeseen emergencies there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the Board may by a majority vote, unless otherwise provided by state law, transfer money from other funds to such fund.

(B) No expenditure during any fiscal year shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized in § 35.34 or by state law.

(C) Any officer or officers of the Board who obligate funds contrary to the provisions of this section shall be guilty of an offense.
(Neb. RS 13-510) Penalty, see § 10.99

§ 35.34 REVISION OF BUDGET.

(A) Unless otherwise provided by law, the Board of Trustees may propose to revise the previously adopted budget statement and shall conduct a public hearing on that proposal whenever during the current fiscal year it becomes apparent to the Board of Trustees that:

(1) There are circumstances which could not reasonably have been anticipated at the time the budget for the current year was adopted;

(2) The budget adopted violated Neb. RS 13-518 through 13-522, such that the revenue of the current fiscal year for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with Neb. RS 13-518 through 13-522; or

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(3) The Board of Trustees has been notified by the Auditor of Public Accounts of a mathematical or accounting error or noncompliance with the Nebraska Budget Act.

(B) 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 Board's jurisdiction. This published notice shall set forth:

(1) The time and place of the hearing;

(2) The amount in dollars of additional or reduced money required and for what purpose;

(3) 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 need for additional money in that manner;

(4) A copy of the summary of the originally adopted budget previously published; and

(5) A copy of the summary of the proposed revised budget.

(C) At the 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.

(D) Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the Board of Trustees, the Board shall file with the County Clerk of the county or counties in which the Board of Trustees is located, and with the Auditor of Public Accounts, a copy of the revised budget, as adopted. The Board of Trustees may then issue warrants in payment for expenditures authorized by the adopted revised budget. These warrants shall be referred to as registered warrants and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

(E) Within 30 days after the adoption of the budget under § 35.29, the Board of Trustees may, or within 30 days after notification of an error by the Auditor of Public Accounts, the Board shall correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than 1% or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the Board of Trustees shall file a copy of the corrected budget with the County Clerk of the county or counties in which the Board of Trustees is located and with the Auditor of Public Accounts. The Board of Trustees may then issue warrants in payment for expenditures authorized by the budget.

(Neb. RS 13-511)

§ 35.35 PROPRIETARY FUNCTIONS; FISCAL YEAR; BUDGET STATEMENTS; FILING; HEARING; ADOPTION; RECONCILIATION.

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PROPRIETARY FUNCTION. A water supply or distribution utility, a wastewater collection or treatment utility, an electric generation, transmission, or distribution utility, a gas supply, transmission, or distribution utility, an integrated solid waste management collection, disposal, or handling utility, or a hospital or a nursing home owned by the village.

(Neb. RS 18-2803)

SUBSIDIZATION. The costs of operation of a proprietary function are regularly financed by appropriations from the village's general fund in excess of the amount paid by the village to the proprietary function for actual service or services received.

(Neb. RS 18-2804)

(B) The Board of Trustees may establish a separate fiscal year for each proprietary function, except that any proprietary function which is subsidized by appropriations from the village's general fund shall have the same fiscal year as the village.

(C) (1) At least 30 days prior to the start of the fiscal year of each proprietary function, a proposed proprietary budget statement shall be prepared in writing and filed with the Village Clerk containing the following information:

(a) For the immediately preceding fiscal year, the revenue from all sources, the unencumbered cash balance at the beginning and end of the year, the amount received by taxation, and the amount of actual expenditure;

(b) For the current fiscal year, actual and estimated revenue from all sources separately stated as to each such source, the actual unencumbered cash balance available at the beginning of the year, the amount received from taxation, and the amount of actual and estimated expenditure, whichever is applicable;

(c) For the immediately ensuing fiscal year, an estimate of revenue from all sources separately stated as to each such source, the actual or estimated unencumbered cash balance, whichever is applicable, to be available at the beginning of the year, the amounts proposed to be expended during the fiscal year, and the amount of cash reserve based on actual experience of prior years; and

(d) A uniform summary of the proposed budget statement which shall include a total of all funds maintained for the proprietary function.

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(2) The statement shall contain the estimated cash reserve for each fiscal year and shall note whether or not the reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years.

(3) Each proprietary budget statement shall be filed on forms prescribed and furnished by the Auditor of Public Accounts following consultation with representatives of such governing bodies as operate proprietary functions subject to the provisions of the Municipal Proprietary Function Act. (Neb. RS 18-2805)

(D) (1) After a proposed proprietary budget statement is filed with the Village Clerk, the Board of Trustees shall conduct a public hearing on the statement. Notice of the time and place of the hearing, a summary of the proposed proprietary budget statement, and notice that the full proposed proprietary budget statement is available for public review with the Village Clerk during normal business hours shall be published one time at least five days prior to the hearing in a newspaper of general circulation within the Board's jurisdiction or by mailing to each resident within the Board's jurisdiction.

(2) After the hearing, the proposed proprietary budget statement shall be adopted or amended and adopted as amended, and a written record shall be kept of the hearing. If the adopted proprietary budget statement reflects a change from the proposed proprietary statement presented at the hearing, a copy of the adopted proprietary budget statement shall be filed with the Village Clerk within 20 days after its adoption and published in a newspaper of general circulation within the Board's jurisdiction or by mailing to each resident within the Board's jurisdiction. (Neb. RS 18-2806)

(E) If the actual expenditures for a proprietary function exceed the estimated expenditures in the proprietary budget statement during its fiscal year, the Board of Trustees shall adopt a proprietary function reconciliation statement within 90 days after the end of the fiscal year which reflects any difference between the adopted proprietary budget statement for the previous fiscal year and the actual expenditures and revenue for that fiscal year. After the adoption of a proprietary function reconciliation statement, it shall be filed with the Village Clerk and published in a newspaper of general circulation within the Board's jurisdiction or by mailing to each resident within the Board's jurisdiction. If the difference between the adopted proprietary budget for the previous fiscal year and the actual expenditures and revenues for that fiscal year is greater than 10%, the proprietary function reconciliation statement shall only be adopted following a public hearing. (Neb. RS 18-2807)

(F) If the budget of a proprietary function is included in the village budget statement created pursuant to the Nebraska Budget Act, the Municipal Proprietary Function Act need not be followed for that proprietary function. Any income from a proprietary function which is transferred to the general fund of the village shall be shown as a source of revenue in the village budget statement created pursuant to the Nebraska Budget Act. (Neb. RS 18-2808)

TAX LEVIES

§ 35.45 PROPERTY TAX LEVY FOR GENERAL REVENUE PURPOSES.

The village shall have power to levy taxes for general revenue purposes in any one year not to exceed \$0.35 on each \$100 upon the taxable value of all the taxable property in the village. The valuation of such property shall be ascertained from the books or assessment rolls of the County Assessor.

(Neb. RS 17-506)

§ 35.46 LEVIES FOR OTHER TAXES AND SPECIAL ASSESSMENTS.

The village shall have power to levy any other tax or special assessment authorized by law.

(Neb. RS 17-507)

§ 35.47 ALL-PURPOSE LEVY; EXTRAORDINARY LEVIES; ALLOCATION; ABANDONMENT.

(A) Notwithstanding provisions in the statutes of Nebraska and this code to the contrary, for any fiscal year the Board of Trustees may decide to certify to the County Clerk for collection one all-purpose levy required to be raised by taxation for all village purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits in § 35.48, the all-purpose levy shall not exceed an annual levy of \$1.05 on each \$100 upon the taxable valuation of all the taxable property in the village. Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the village may be made by the village in addition to such all-purpose levy.

(Neb. RS 19-1309)

(B) If the method provided in division (A) is followed in village financing, the village shall allocate the amount so raised to the several departments of the village in its annual budget and appropriation ordinance, or in other legal manner, as the Board of Trustees deems wisest and best.

(Neb. RS 19-1310)

(C) If the village elects to follow the method provided in division (A), it shall be bound by that election during the ensuing fiscal year but may abandon such method in succeeding fiscal years.

(Neb. RS 19-1311)

(D) If it is necessary to certify the amount to county officers for collection, the same shall be certified as a single amount for general fund purposes.

(Neb. RS 19-1312)

§ 35.48 PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED.

(A) Property tax levies for the support of the village for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this division (A), except as provided in division (C). The village may levy a maximum levy of \$0.45 per \$100 of taxable valuation of property subject to the levy plus an additional \$0.05 per \$100 of taxable valuation to provide financing for the village's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. RS 51-201, museum pursuant to Neb. RS 51-501, visiting community nurse, home health nurse, or home health agency pursuant to Neb. RS 71-1637, or statue, memorial, or monument pursuant to Neb. RS 80-202. Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against the village which require or obligate the village to pay that judgment, to the extent the judgment is not paid by liability insurance coverage of the village, for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this division (A). The limitations on tax levies provided in this division (A) are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this division (A) are those provided by or authorized by this section. Tax levies in excess of the limitations in this section shall be considered unauthorized levies under Neb. RS 77-1606 unless approved under division (C).
(Neb. RS 77-3442)

(B) (1) All city airport authorities established under the Cities Airport Authorities Act, and community redevelopment authorities established under the Community Development Law may be allocated property taxes as authorized by law which are authorized by the village and are counted in the village levy limit provided by division (A), except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport. The Board of Trustees shall review and approve or disapprove the levy request of the political subdivisions subject to this division (B). The Board of Trustees may approve all or a portion of the levy request and may approve a levy request that would allow a levy greater than that permitted by law. The levy allocated by the village may be exceeded as provided in division (C).

(2) On or before August 1, all political subdivisions subject to village levy authority under this division (B) shall submit a preliminary request for levy allocation to the Board of Trustees. The preliminary request of the political subdivision shall be in the form of a resolution adopted by a majority vote of members present of the political subdivision's governing body. The failure of a political subdivision to make a preliminary request shall preclude that political subdivision from using procedures set forth in Neb. RS 77-3444 to exceed the final levy allocation as determined in this division (B).

(3) (a) The Board of Trustees shall:

1. Adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions; and

2. Forward a copy of that resolution to the chairperson of the governing body of each of its political subdivisions.

(b) No final levy allocation shall be changed after September 1 except by agreement between both the Board of Trustees and the governing body of the political subdivision whose final levy allocation is at issue.

(Neb. RS 77-3443)

(C) (1) The village may exceed the limits provided in division (A) by an amount not to exceed a maximum levy approved by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to exceed the limits must be approved prior to October 10 of the fiscal year which is to be the first to exceed the limits.

(2) The Board of Trustees may call for the submission of the issue to the voters:

(a) By passing a resolution calling for exceeding the limits by a vote of at least two-thirds of the members of the Board of Trustees and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the village; or

(b) Upon receipt of a petition by the County Clerk or Election Commissioner of every county containing all or part of the village requesting an election signed by at least 5% of the registered voters residing in the village.

(3) The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in division (A) and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than five years. Any resolution or petition calling for a special election shall be filed with the County Clerk or Election Commissioner no later than 30 days prior to the date of the election, and the time of publication and providing a copy of the notice of election required in Neb. RS 32-802 shall be no later than 20 days prior to the election.

(4) The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition. The election shall be held pursuant to the Election Act. For petitions filed with the County Clerk or Election Commissioner on or after May 1, 1998, the petition shall be in the form as provided in Neb. RS 32-628 through 32-631.

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(5) Any excess levy authority approved under this division (C) shall terminate pursuant to its terms, on a vote of the Board of Trustees to terminate the authority to levy more than the limits, at the end of the fourth fiscal year following the first year in which the levy exceeded the limit, or as provided in division (C)(9), whichever is earliest.

(6) The Board of Trustees may pass no more than one resolution calling for an election pursuant to this division (C) during any one calendar year. Only one election may be held in any one calendar year pursuant to a petition initiated under this division (C). The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the language specified in Neb. RS 77-3444.

(7) If a majority of the votes cast upon the ballot question are in favor of the tax, the County Board shall authorize a tax in excess of the limits in division (A), but the tax shall not exceed the amount stated in the ballot question. If a majority of those voting on the ballot question are opposed to the tax, the Board of Trustees shall not impose the tax.

(8) In lieu of the election procedures in this division (C), the village may approve a levy in excess of the limits in division (A) for a period of one year at a meeting of the residents of the village, called after notice is published in a newspaper of general circulation in the village at least 20 days prior to the meeting. At least 10% of the registered voters residing in the village shall constitute a quorum for purposes of taking action to exceed the limits or final levy allocation. A record shall be made of the registered voters residing in the political subdivision or village who are present at the meeting. The method of voting at the meeting shall protect the secrecy of the ballot. If a majority of the registered voters present at the meeting vote in favor of exceeding the limits, a copy of the record of that action shall be forwarded to the County Board prior to October 10 and the County Board shall authorize a levy as approved by the residents for the year. If a majority of the registered voters present at the meeting vote against exceeding the limits, the limit shall not be exceeded and the village shall have no power to call for an election under this division (C).

(9) (a) The village may rescind or modify a previously approved excess levy authority prior to its expiration by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to rescind or modify must be approved prior to October 10 of the fiscal year for which it is to be effective.

(b) The Board of Trustees may call for the submission of the issue to the voters:

1. By passing a resolution calling for the rescission or modification by a vote of at least two-thirds of the members of the Board of Trustees and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the village; or

2. Upon receipt of a petition by the County Clerk or Election Commissioner of every county containing all or part of the village requesting an election signed by at least 5% of the registered voters residing in the village.

(c) The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either the excess levy authority will be rescinded or the excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of the modification shall be stated. The modification shall not have a duration greater than five years. The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition, and the time of publication and providing a copy of the notice of election required in Neb. RS 32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act.

(Neb. RS 77-3444)

§ 35.49 PROPERTY TAX LEVY; CERTIFICATION OF AMOUNT; COLLECTION.

The Board of Trustees shall, at the time and in the manner provided by law, cause to be certified to the County Clerk the amount of tax to be levied upon the taxable value of all the taxable property of the village which the village requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. The County Clerk shall place the same on the property tax lists to be collected in the manner provided by law for the collection of county taxes in the county where the village is situated. In all sales for any delinquent taxes for municipal purposes, if there are other delinquent taxes due from the same person or a lien on the same property, the sale shall be for all the delinquent taxes. Such sales and all sales made under or by virtue of this section or the provision of law herein referred to shall be of the same validity and in all respects be deemed and treated as though such sales had been made for the delinquent county taxes exclusively.

(Neb. 17-702)

§ 35.50 PROPERTY TAX REQUEST; PROCEDURE FOR SETTING.

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

(B) The hearing notice shall contain the following information:

(1) The dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request;

(2) The property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and

(3) The proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request.

(B) Any resolution setting a tax request under this section shall be certified and forwarded to the County Clerk on or before October 13 of the year for which the tax request is to apply.

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

§ 35.51 MOTOR VEHICLE FEE.

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LIMITS OF THE MUNICIPALITY. Includes the extraterritorial zoning jurisdiction of the municipality.

PERSON. Includes bodies corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, cooperatives, and associations. Person does not include any federal, state, or local government or any political subdivision thereof.

(B) Except as otherwise provided in division (D) of this section, the governing body of the municipality shall have power to require any individual whose primary residence or person who owns a place of business which is within the limits of the municipality and that owns and operates a motor vehicle within such limits to pay an annual motor vehicle fee and to require the payment of such fee upon the change of ownership of such vehicle. All such fees which may be provided for under this section shall be used exclusively for constructing, repairing, maintaining, or improving streets, roads, alleys, public ways, or parts thereof or for the amortization of bonded indebtedness when created for such purposes.

(C) No motor vehicle fee shall be required under this section if:

(1) A vehicle is used or stored but temporarily in the municipality for a period of six months or less in a 12-month period;

(2) An individual does not have a primary residence or a person does not own a place of business within the limits of the municipality and does not own and operate a motor vehicle within the limits of the municipality; or

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(3) An individual is a full-time student attending a postsecondary institution within the limits of the municipality and the motor vehicle's situs under the Motor Vehicle Certificate of Title Act is different from the place at which he or she is attending such institution.

(D) After December 31, 2012, no motor vehicle fee shall be required of any individual whose primary residence is or person who owns a place of business within the extraterritorial zoning jurisdiction of the municipality.

(E) The fee shall be paid to the County Treasurer of the county in which the municipality is located when the registration fees as provided in the Motor Vehicle Registration Act are paid. These fees shall be credited to the County Treasurer to the road fund of the municipality.

(Neb. RS 18-1214)

(Ord. 397, passed 12-12-2011; Ord. 414, passed 1-7-2013)

Statutory reference:

Designation of county official, see Neb. RS 23-186

Motor Vehicle Registration Act, see Neb. RS 60-301

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CHAPTER 36: POLICE AND FIRE DEPARTMENTS

Section

Police Department

- 36.01 Duties
- 36.02 Reserve officer; bond
- 36.03 Village prerogative to establish Police Department

Fire Department

- 36.15 Operation and funding
- 36.16 Fire Chief
- 36.17 Membership
- 36.18 Fires
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- 36.20 Fighting distant fires
- 36.21 Preservation of property
- 36.22 Impersonating firefighter
- 36.23 Mandatory assistance
- 36.24 Power of arrest
- 36.25 Fire investigation
- 36.26 Village prerogative to establish Fire Department

POLICE DEPARTMENT

§ 36.01 DUTIES.

(A) The Police Department shall consist of the Village Marshal and a further number of regular police officers as may be duly ordered by resolution of the Board of Trustees. The Village Marshal shall, subject the direction of the governing body, have control and management of all matters relating to the Police Department, its officers and members, and shall have the custody and control of all property and books belonging to the Department.

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(B) The Department shall execute and enforce all laws and also the orders of the Chairperson of the Board of Trustees, shall be the duty of the Department to protect the rights of persons and property. There shall be proper police force at all fires.

(C) The Department shall take notice of all nuisances, impediments, obstructions and defects in the streets, avenues alleys, business places, and residences of the municipality.

(D) The Department shall execute, or cause to be executed, the processes issued and shall cause all persons arrested to be brought before the proper court for trial as speedily as possible.

(E) The Village Marshal and all regular and special police officers shall become thoroughly conversant with the laws of the municipality, and shall see that the same are strictly enforced and shall make sworn complaints against any person or persons for violation of the same.
(1976 Code, § 3-401)

§ 36.02 RESERVE OFFICER; BOND.

(A) No appointment of a law enforcement reserve officer shall be valid until a bond in the amount of \$2,000, payable to the village, has been filed with the Municipal Clerk by the individual appointed, or a blanket surety bond arranged and paid for by the governing body and bonding all the officers of the governing body has been filed.

(B) The bonds shall be subject to the provisions of Neb. RS Chapter 11, Article 1.
(1976 Code, § 3-402) (Ord. 200, passed 8-3-1987)

Statutory reference:

Related provisions, see Neb. RS 81-1444

§ 36.03 VILLAGE PREROGATIVE TO ESTABLISH POLICE DEPARTMENT.

The Village has the right to have a Police Department if necessary or the need arises.

FIRE DEPARTMENT**§ 36.15 OPERATION AND FUNDING.**

(A) The municipality operates the Municipal Fire Department through the Municipal Fire Chief and firefighters. The governing body, for the purpose of defraying the cost of the management, maintenance and improving the Fire Department may each year levy a tax not exceeding the maximum limits

prescribed by state law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The revenue from the tax shall be known as the Fire Department Fund. The Fund shall be at all times in the possession of the Municipal Treasurer.

(B) In addition to the above, the Fire Department is authorized to enter into agreement with the appropriate Rural Fire District for the mutual aid and protection of the residents of both the municipality and the Rural Fire District. The agreement so entered into shall be on file at the office of the Municipal Clerk for public inspection at any reasonable time.

(1976 Code, § 3-301)

Statutory reference:

Related provisions, see Neb. RS 17-718, 17-953

§ 36.16 FIRE CHIEF.

(A) The Fire Chief shall manage the Fire Department and it shall be his or her duty to inform the governing body when any of the fire engines, hose, ladders or other apparatus needs repair.

(B) Upon the written consent and directive of the governing body, the Fire Chief shall cause the repair, improvement or maintenance of the equipment and shall personally supervise and approve of the same.

(C) It shall be the duty of the Fire Chief to come before the governing body at the regular meeting in January of each year to give an annual report to the governing body of the general condition and the proposed additions or improvements recommended by him or her.

(1976 Code, § 3-302)

§ 36.17 MEMBERSHIP.

(A) The Fire Chief shall appoint no more than 25 members for each Fire Department Company subject to the review and approval of the governing body. All vacancies shall be filled in that manner. The members shall be considered to employees of the municipality for the purpose of providing them with workmen's compensation and other benefits.

(B) Each member shall be entitled to a life insurance policy in the amount of at least \$5,000 for death from a cause to age 65 and the policy shall at the option of the individual firefighter, be convertible to a permanent form of life insurance at age 65; provided, that the firefighters covered are actively and faithfully performing the duties of their position.

(C) The Fire Department shall consist of so many members as may be decided by the governing body. The members may organize themselves in any way they may decide, subject to the review of the governing body. They may hold meetings and engage in social activities with the approval of the governing body. The Secretary shall upon request keep a record of all meetings and shall make a report to the governing body of all meetings and activities of the Fire Department.

(D) The governing body may, for services rendered, compensate or reward any member or members of the Fire Department in an amount set by resolution. All members of the Fire Department shall be subject to rules and regulations, and shall perform duties as may be prescribed or required of them by the Fire Chief or the governing body.

(E) The members of the Fire Department shall, during the time of a fire or great public danger, have and exercise the powers and duties of police officers and shall have full power and authority to arrest all persons guilty of any violation of the municipal code, or the laws of the state; provided, however, volunteer firefighters and rescue squad members testifying as a witness in connection with his or her officially assigned duties in that capacity alone shall not be deemed employees of the state or of the municipality.

(1976 Code, § 3-303) (Ord. 134, passed 5-4-1981; Ord. 135, passed 12-7-1981; Ord. 194, passed 8-3-1987)

Statutory reference:

Related provisions, see Neb. RS 33-139.01, 35-101 through 35-103, 35-108

§ 36.18 FIRES.

It shall be the duty of the Fire Department to use all proper means for the extinguishment of fires; to protect property within the municipality; and to secure the observance of all ordinances, laws and other rules and regulations with respect to fires and fire prevention.

(1976 Code, § 3-304)

§ 36.19 DISTANT FIRES.

Upon the permission of the Village Chairperson or Fire Chief, the fire equipment of the municipality as may be designated by the governing body as rural equipment may be used beyond the corporate limits to extinguish a reported fire.

(1976 Code, § 3-305)

§ 36.20 FIGHTING DISTANT FIRES.

The firefighters of the municipality shall be considered as acting in the performance and within the scope of their duties in fighting fire or saving property or life outside the corporate limits of the municipality when directed to do so by the Chairperson of the Board of Trustees or the Chief of the Fire Department or some person authorized to act for the Chief and in so doing, may take the fire equipment of the municipality as may be designated by the governing body.
(1976 Code, § 3-306)

§ 36.21 PRESERVATION OF PROPERTY.

Any official of the Municipal Fire Department shall have the power during the time of a fire to cause the removal of any private or public property whenever it shall become necessary to do so for the preservation of the property from fire, to prevent the spreading of fire, or to protect adjoining property. The officials may direct the municipal firefighters to remove any building, structure or fence for the purpose of checking the progress of any fire, and the official in charge of the firefighting effort shall have the power to blow up, or cause to be blown up, with powder or otherwise, any building or erection during the progress of a fire for the purpose of extinguishing or checking the same.
(1976 Code, § 3-307)

§ 36.22 IMPERSONATING FIREFIGHTER.

It shall be unlawful for an person to falsely personate a firefighter by wearing badge or other apparel usually worn by a firefighter for the purpose of obtaining any benefit whatsoever. Nothing herein shall be construed to prohibit the theatrical representation of a firefighter for bon fide entertainment purposes when there is no intent to defraud.
(1976 Code, § 3-308) Penalty, see § 10.99

Statutory reference:

Related provisions, see Neb. RS 28-609

§ 36.23 MANDATORY ASSISTANCE.

Any official of the Municipal Fire Department may command the assistance and services of any person present at a fire to help in extinguishing the fire, or in the removal and protection of property. In the event that a spectator refuses, neglects or fails to assist the Fire Department after a lawful order to do so, he or she shall be deemed guilty of a misdemeanor.
(1976 Code, § 3-309)

§ 36.24 POWER OF ARREST.

The Municipal Fire Chief or the assistant Fire Chief shall have the power during the time of a fire and for a period of 36 hours after its extinguishment, to arrest any suspected arsonist, or other person hindering or resisting the firefighting effort, or any person who conducts himself or herself in a noisy or disorderly manner. The officials shall be severally vested with the usual powers and authority of municipal police officers to command all persons to assist them in the performance of their duties. (1976 Code, § 3-310)

§ 36.25 FIRE INVESTIGATION.

(A) It shall be the duty of the Fire Department to investigate or cause to be investigated, the cause, origin and circumstances of every fire occurring in the municipality in which property has been destroyed or damaged in excess of \$50.

(B) All fires of unknown origin shall be reported, and the officers shall especially make an investigation and report as to whether the fire was the result of carelessness, accident or design.

(C) The investigation shall be begun within two days of the occurrence of the fire and the State Fire Marshal shall have the right to supervise and direct the investigation whenever he or she deems it expedient or necessary.

(D) The officer making the investigation of fires occurring within the municipality shall immediately notify the State Fire Marshal and shall, within one week of the occurrence of the fire, furnish him or her with a written statement of all the facts relating to the cause and origin of the fire, and further information as he or she may call for. (1976 Code, § 3-311)

Statutory reference:

Related provisions, see Neb. RS 81-506

§ 36.26 VILLAGE PREROGATIVE TO ESTABLISH FIRE DEPARTMENT.

The Village has the right to have a Fire Department if necessary or the need arises.

CHAPTER 37: LIBRARY AND MUSEUM

Section

Historical Museum

37.01 Funding

Library

37.15 Operation and funding

37.16 Books

37.17 Fees, penalties and forfeitures

37.18 Damaged and lost books

37.19 Book removal

37.20 Cost of use

37.21 Money collected

Cross reference:

Library Board, see § 31.02

HISTORICAL MUSEUM

§ 37.01 FUNDING.

The Village Board of Trustees shall provide funding for a historical museum for the village through tax levy.

(1976 Code, § 3-110) (Ord. 145, passed 9-7-1982)

LIBRARY

§ 37.15 OPERATION AND FUNDING.

(A) The municipality owns and manages the municipal library through the Library Board. The governing body, for the purpose of defraying the cost of the management, purchases, improvements and

maintenance of the library may each year levy a tax not exceeding the maximum limit prescribe by state law, on the actual valuation of all real estate and personal property within the municipality that is subject to taxation. The revenue from the tax shall be known as the Library Fund and shall include all gifts, grants, deeds of conveyance bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the municipal library.

(B) The Library Fund shall at all times be in the custody of the Municipal Treasurer. The Board shall have the power and authority to appoint the librarian and to hire other employees as it may deem necessary and may pass other rules and regulations for the operation of the library as may be proper for its efficient operation. All actions by the Board shall be under the supervision and control of the governing body.

(1976 Code, § 3-601)

Statutory reference:

Related provisions, see Neb. RS 51-201, 51-202, 51-211

§ 37.16 BOOKS.

The Library Board may authorize the sale, exchange or disposal of any surplus, damaged, defective, obsolete or duplicate books in the library. Records shall be kept of any surplus, damaged, defective, obsolete or duplicate books so disposed of.

(1976 Code, § 3-602)

Statutory reference:

Related provisions, see Neb. RS 51-207

§ 37.17 FEES, PENALTIES AND FORFEITURES.

All fees, penalties and forfeitures assessed by the library may be collected in civil action in the event of failure, neglect or refusal to pay the assessments.

(Ord. 416, passed 1-7-2013)

Statutory reference:

Related provisions, see Neb. RS 51-205, 51-214

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§ 37.18 DAMAGED AND LOST BOOKS.

Any person who injures or fails to return any book taken from the library shall forfeit and pay to the library not less than the value of the book in addition to any replacement costs and penalty which the Library Board may assess.

(1976 Code, § 3-604)

Statutory reference:

Related provisions, see Neb. RS 51-211

§ 37.19 BOOK REMOVAL.

It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book from the library, without the consent of the librarian, or an authorized employee of the library. Any person removing a book from the library without properly checking it out shall be deemed to be guilty of a misdemeanor.

(1976 Code, § 3-605) Penalty, see § 10.99

Statutory reference:

Related provisions, see Neb. RS 51-211

§ 37.20 COST OF USE.

The municipal library shall be free for the use of the inhabitants of the municipality. The librarian may exclude from the use of the library and reading rooms any person who shall willfully violate or refuse to comply with the rules and regulations established for the government thereof.

(1976 Code, § 3-606)

Statutory reference:

Related provisions, see Neb. RS 51-201, 51-212

§ 37.21 MONEY COLLECTED.

Any money collected by the library shall be turned over monthly by the librarian to the Municipal Treasurer along with a report of the sources of the revenue.

(1976 Code, § 3-607)

Statutory reference:

Related provisions, see Neb. RS 51-209

