

TITLE III: ADMINISTRATION

Chapter

- 30. ELECTED OFFICIALS; ORDINANCES**
- 31. APPOINTED VILLAGE OFFICIALS**
- 32. DEPARTMENTS, BOARDS, AND COMMISSIONS**
- 33. GENERAL PROVISIONS**
- 34. ELECTIONS**
- 35. FINANCE AND REVENUE**

Cross-reference:

Local legislation regarding village administration, see Title XVII

CHAPTER 30: ELECTED OFFICIALS; ORDINANCES

Section

Board of Trustees

- 30.01 Election; terms; qualifications
- 30.02 General powers
- 30.03 Oath; organization; Chairperson
- 30.04 Chairperson; powers and duties; absence
- 30.05 Standing committees
- 30.06 Vacancy; general provisions
- 30.07 Vacancy due to unexcused absences

Ordinances, Resolutions, and Motions

- 30.35 Grant of power
- 30.36 Procedure for resolutions and motions
- 30.37 Introduction of ordinances
- 30.38 Ordinances; style, title
- 30.39 Reading and passage of ordinances, resolutions, orders, bylaws
- 30.40 Publication or posting
- 30.41 Certificate of publication or posting
- 30.42 Effective date; emergency ordinances
- 30.43 Amendments and revisions

BOARD OF TRUSTEES

§ 30.01 ELECTION; TERMS; QUALIFICATIONS.

(A) The corporate powers and duties of the village shall be vested in the Board of Trustees which shall consist of 5 members. At the first statewide general election held after the incorporation of the village, 2 Trustees shall be elected to serve 2 years and 3 Trustees shall be elected to serve 4 years. Thereafter the Board members shall be elected as provided in the Election Act. The terms shall begin on the first regular meeting of the Board in December following the statewide general election.
(Neb. RS 17-202)

Villages - Administration

(B) The members of the Board of Trustees shall be elected at the statewide general election as provided in division (A) and each 4 years thereafter. Except as provided in that division, the term of each Board member shall be 4 years or until his or her successor is elected and qualified.
(Neb. RS 32-532)

(C) Any person may be a Trustee who is a citizen of the United States, resides in the village, and is a registered voter.
(Neb. RS 17-203)

(D) Unless the village provides otherwise, members of the Board of Trustees shall be elected from the village at large on a nonpartisan ballot.

(E) The Board of Trustees shall determine whether the person meets all requirements before swearing in a Trustee.
(Neb. RS 32-602)

Statutory reference:

Ability to elect Trustees at large or by ward, see Neb. RS 32-554

Ability to provide for a partisan ballot, see Neb. RS 32-557

Election Act, see Neb. RS 32-101

Holding other office or employment, see Neb. RS 17-209.02 and 32-604

§ 30.02 GENERAL POWERS.

(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 watercraft; 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 manufactories; and to enforce all ordinances by inflicting penalties upon inhabitants or other persons for violation thereof not exceeding \$500 for any one offense, recoverable with costs.
(Neb. RS 17-207)

(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 this power and authority within its zoning jurisdiction.
(Neb. RS 18-1720)

§ 30.03 OATH; ORGANIZATION; CHAIRPERSON.

Every Trustee, before entering upon the duties of his or her office, shall take an oath to support the Constitution of the United States and the Constitution of Nebraska and faithfully and impartially to discharge the duties of his or her office. All Trustees elected to office shall qualify and meet on the first regular meeting of the Board of Trustees in December thereafter, organize, elect a Chairperson of the Board, and appoint the officers required by law.

(Neb. RS 17-204)

Statutory reference:

Oath, see Neb. RS 11-101

§ 30.04 CHAIRPERSON; POWERS AND DUTIES; ABSENCE.

(A) The Chairperson shall preside at all meetings of the Board of Trustees and perform all duties of his or her office in accordance with the laws of the state and the ordinances of the village.

(B) The Chairperson of the Board of Trustees shall cause the ordinances of the Board to be printed and published for the information of the inhabitants and cause the same to be carried into effect. In the absence of the Chairperson from any meeting of the Board, the Board shall have power to appoint a Chairperson pro tempore, who shall exercise and have the powers and perform the same duties as the regular Chairperson.

(Neb. RS 17-210)

(C) The Chairperson and the Chairperson pro tempore shall have the same powers and privileges as other members of the Board of Trustees.

§ 30.05 STANDING COMMITTEES.

(A) At the organizational meeting of the Board of Trustees each year, the Chairperson shall appoint members of those standing committees as the Board may create by ordinance or resolution. The membership of the standing committees may be changed at any time by the Chairperson. The Chairperson shall be an ex officio member of each standing committee. The members of the standing committees shall serve terms of office of 1 year, unless reappointed.

(B) The standing committees shall be appointed or reappointed each year until changed by the Board of Trustees.

§ 30.06 VACANCY; GENERAL PROVISIONS.

(A) Every elective office shall be vacant upon the happening of any of the events specified in Neb. RS 32-560 except as provided in Neb. RS 32-561.

Villages - Administration

(B) (1) Except as otherwise provided in division (C) or (D), 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 that 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 3 public places in the village the office vacated and the length of the unexpired term.

(2) The Chairperson of the Board shall 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 regular or special meeting shall occur upon the death of the incumbent, or within four weeks after the meeting at which such notice of vacancy has been presented. The Board shall vote upon 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 that meeting to submit the names of qualified registered voters in nomination and the Board shall continue to vote upon the nominations at such meeting 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 that person were elected.

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

(D) 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 village election to fill those vacancies.
(Neb. RS 32-569)

Statutory reference:

Additional and similar provisions, see Neb. RS 32-560 through 32-572

Ineligibility of official subjected to recall, see Neb. RS 32-1308

§ 30.07 VACANCY DUE TO UNEXCUSED ABSENCES.

(A) In addition to the events listed in Neb. RS 32-560 and any other reasons for a vacancy provided by law, after notice and a hearing, a vacancy on the Board of Trustees shall exist if a member is absent from more than 5 consecutive regular meetings of the Board unless the absences are excused by a majority vote of the remaining members.

(Neb. RS 19-3101)

(B) The Board shall take a vote on whether to excuse a member's absence from a meeting upon either:

- (1) A written request from the member submitted to the Village Clerk; or
- (2) A motion of any other Board member.

(C) If a member has been absent from 6 consecutive regular meetings and none of the absences have been excused by a majority vote of the remaining members, the Clerk shall include this as an item on the agenda for the next regular meeting. At that meeting, the Board shall set a date for a hearing and direct the Clerk to give the member notice of the hearing by personal service or first class mail to the member's last known address.

(D) At the hearing, the Board member shall have the right to present information on why 1 or more of the absences should be excused. If the Board does not excuse 1 or more of the member's absences by a majority vote at the conclusion of the hearing, there shall be a vacancy on the Board.

ORDINANCES, RESOLUTIONS, AND MOTIONS

§ 30.35 GRANT OF POWER.

(A) The Board of Trustees shall have 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 such 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 watercraft; to provide for the inspection of building materials to be used or offered for sale in such 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 such 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 manufactories, and to enforce all ordinances by inflicting penalties upon inhabitants or other persons, for the violation thereof, not exceeding \$500 for any one offense, recoverable with costs. Nothing in this division shall be construed to apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act. (Neb. RS 17-207)

(B) In addition to its special powers, the village shall have the power to 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 manufactories, and to enforce all ordinances by inflicting fines or penalties for the breach thereof, not exceeding \$500 for any one offense, recoverable with costs.

(Neb. RS 17-505)

Statutory reference:

Adoption of standard codes, see Neb. RS 18-132 and 19-922

Prosecution in county court, see Neb. RS 25-2703

§ 30.36 PROCEDURE FOR RESOLUTIONS AND MOTIONS.

Unless the Board of Trustees has specified other procedures, resolutions and motions shall be introduced in 1 of the methods prescribed in § 30.37 for the introduction of ordinances. The issue raised by the resolution or motion shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the Board of Trustees. 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.

§ 30.37 INTRODUCTION OF ORDINANCES.

Unless the Board of Trustees has specified other procedures, ordinances shall be introduced by members of the Board of Trustees in 1 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 Board of Trustees, read aloud the substance of the proposed ordinance and file a copy with the Village 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 Board of Trustees, shall read aloud the substance of the ordinance and file it for future consideration.

§ 30.38 ORDINANCES; STYLE, TITLE.

(A) The style of all village ordinances shall be: “Be it ordained by the Chairperson and Board of Trustees of the Village of _____, Nebraska:....”

(Neb. RS 17-613)

(B) No ordinance shall contain a subject which is not clearly expressed in the title.

(Neb. RS 17-614)

§ 30.39 READING AND PASSAGE OF ORDINANCES, RESOLUTIONS, ORDERS, BYLAWS.

(A) 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 Board of Trustees. Ordinances of a general or permanent nature shall be read by title on 3 different days unless 3/4 of the Board of Trustees vote to suspend this requirement, except that this requirement shall not be suspended for any ordinance for the annexation of territory. In case this requirement is suspended, the ordinance shall be read by title and then moved for final passage. Three-fourths of the Board of Trustees may require a reading of any such ordinance in full before enactment under either procedure set out in this section.

(Neb. RS 17-614)

(B) On the passage or adoption of every bylaw or ordinance, and every resolution or order to enter into a contract by the Board of Trustees, the yeas and nays shall be called and recorded. To pass or adopt any bylaw, ordinance, or any such resolution or order a concurrence of a majority of the whole number of members elected to the Board of Trustees shall be required. All appointments of the officers by the Board of Trustees 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. 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 Board of Trustees to be readily seen by the public.

(Neb. RS 17-616)

§ 30.40 PUBLICATION OR POSTING.

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

(A) In some newspaper published in the village or, if no paper is published in the village, then by posting a written or printed copy in each of 3 public places in the village; or

(B) In book or pamphlet form.

(Neb. RS 17-613)

Statutory reference:

Chairperson of Board of Trustees; duties, see Neb. RS 17-210

Additional provisions, see Neb. RS 18-131

§ 30.41 CERTIFICATE OF PUBLICATION OR POSTING.

The passage, approval, and publication or posting of an ordinance shall be sufficiently proved by a certificate under the seal of the village from the Village Clerk showing that the ordinance was passed

and approved, and when and in what paper the ordinance was published, or when and by whom and where the ordinance was posted.

(Neb. RS 17-613)

Statutory reference:

Passage; rules and regulations, see Neb. RS 17-615

§ 30.42 EFFECTIVE DATE; EMERGENCY ORDINANCES.

(A) Except as provided in § 30.40 and division (B) of this section, an ordinance for the government of the village which has been adopted by the Board of Trustees without submission to the voters of the village shall not go into effect until 15 days after the passage of the ordinance.

(Neb. RS 19-3701)

(B) In the case of riot, infectious or contagious diseases, or other impending danger, failure of a public utility, or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the Chairperson and the posting thereof in at least 3 of the most public places in the village. The emergency ordinance shall recite the emergency, be passed by a 3/4 vote of the Board of Trustees, and be entered of record on the Village Clerk's minutes.

(Neb. RS 17-613)

§ 30.43 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.

(Neb. RS 17-614)

Statutory reference:

Modifications to zoning or building districts, see Neb. RS 19-915

Ordinances revising all the ordinances of the village, see Neb. RS 17-614

CHAPTER 31: APPOINTED VILLAGE OFFICIALS

Section

- 31.01 Appointment; terms; removal; powers; duties
- 31.02 Qualification for office
- 31.03 Merger of offices
- 31.04 Village Clerk
- 31.05 Village Treasurer
- 31.06 Village Attorney
- 31.07 Overseer of Streets
- 31.08 Village Marshal
- 31.09 Fire Chief
- 31.10 Water Commissioner/Public Works Commissioner
- 31.11 Village Engineer; Special Engineer

Cross-reference:

For any additional local legislation, see Title XVII

§ 31.01 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.

§ 31.02 QUALIFICATION FOR OFFICE.

Each appointive officer who is required to give bond shall qualify by filing the required bond and oath as provided in §§ 33.30 and 33.31. Each appointive officer who is not required to give bond shall qualify by filing the required oath as provided in § 33.31.

§ 31.03 MERGER OF OFFICES.

The Board of Trustees may by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except Trustee, with any other elective or appointive office or employment so that 1 or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time, except that trustees may perform and upon Board approval receive compensation for seasonal or emergency work subject to Neb. RS 49-14,103.01 to 49-14,103.06. The offices or employments so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged and combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment, or employments so merged and combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers.
(Neb. RS 17-209.02)

Cross-reference:

For local provisions regarding particular merged offices, see Title XVII

§ 31.04 VILLAGE 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 Chairperson for his or her signature. He or she shall also deliver to officers, employees, and committees all resolutions and communications which are directed at such officers, employees, or committees. With the seal of the village, he or she shall duly attest the Chairperson's signature to all ordinances, deeds, and papers required to be attested to when ordered to do so by the 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 5 days after the disallowance, and the Clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

§ 31.05 VILLAGE TREASURER.

(A) (1) The Village Treasurer shall be the custodian of all money belonging to the village. He or she shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto. He or she shall give every person paying money into the 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 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. He or she 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.

§ 31.06 VILLAGE ATTORNEY.

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

(B) The Village Attorney shall also examine, when requested to do so by the Board of Trustees, the ordinance records and advise and assist the Village Clerk as much as may be necessary to the end that each procedural step will be taken in the passage of each ordinance to insure that it will be a valid and subsisting local law in so far as its passage and approval are concerned.

§ 31.07 OVERSEER OF STREETS.

The Overseer of Streets shall, subject to the order of the Board of Trustees, have general charge, direction, and control of all works on streets, sidewalks, culverts, and bridges of the village, and shall perform such other duties as the Board may direct.
(Neb. RS 17-214)

Statutory reference:

Incentive payments to street superintendents, see Neb. RS 39-2512

§ 31.08 VILLAGE MARSHAL.

(A) The Village Marshal shall be chief of police and shall at all times have power to make or order an arrest, with proper process, for any offense against the laws of the state or ordinances of the village and bring the offender to trial before the proper officer and to arrest without process in all cases where any such offense shall be committed or attempted to be committed in his or her presence.
(Neb. RS 17-213)

(B) The Village Marshal shall direct the police work of the village and shall be responsible for the maintenance of law and order. Unless the Board of Trustees provides otherwise, he or she shall act as Health Inspector and Building Inspector. He or she shall file the necessary complaints in cases arising out of violations of village ordinances and shall make all necessary reports required by the village ordinances or the laws of the state.

(C) If the village has an agreement with the County Sheriff for law enforcement purposes, the County Sheriff shall have all the powers and duties of the Village Marshal and village police officers as specified in the agreement.

Cross-reference:

For any local law enforcement designation or provisions, see Title XVII

§ 31.09 FIRE CHIEF.

The 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.

Cross-reference:

Fire department provisions, see § 32.35 et seq.

§ 31.10 WATER COMMISSIONER/PUBLIC WORKS COMMISSIONER.

(A) (1) As soon as a system of waterworks or mains or portion or extension of any system of waterworks or water supply has been established by the village, the Chairperson shall nominate and by and with the advice and consent of the Board of Trustees shall appoint any competent person who shall be known as the Water Commissioner of the village and whose term of office shall be for 1 fiscal year or until his or her successor is appointed and qualified. Annually at the first regular meeting of the Board of Trustees in December, the Water Commissioner shall be appointed as provided in this section.

(2) The Water Commissioner may at any time, for sufficient cause, be removed by a 2/3 vote of the Board of Trustees. Any vacancy occurring in the office of Water Commissioner by death, resignation, removal from office, or removal from the village may be filled in the manner provided in this section for the appointment of the Commissioner.

Villages - Administration

(3) The Water Commissioner shall, before he or she enters upon the discharge of his or her duties, execute a bond or provide evidence of equivalent insurance to the village in a sum to be fixed by the Board of Trustees, but not less than \$5000, conditioned upon the faithful discharge of his or her duties, and such bond shall be signed by 2 or more good and sufficient sureties, to be approved by the Board of Trustees or executed by a corporate surety.

(4) The Water Commissioner, subject to the supervision of the Board of Trustees, shall have the general management and control of the system of waterworks or mains or portion or extension of any system of waterworks or water supply in the village.

(5) In a village where no Board of Public Works exists, and the village has other public utilities than its waterworks system, the Board of Trustees shall by ordinance designate Water Commissioner as Public Works Commissioner with authority to manage not only the system of waterworks but also other public utilities, and all of the provisions of this division (A) applying to the Water Commissioner shall apply to the Public Works Commissioner.

(Neb. RS 17-541)

(B) (1) The Water Commissioner shall collect all money received by the village on account of its system of waterworks and shall faithfully account for and pay over the same to the Village Treasurer, taking his or her receipt therefor in duplicate, filing one of the same with the Village Clerk.

(2) He or she shall make a detailed report to the Board of Trustees, at least once every 6 months, of the condition of the water system, of all mains, pipes, hydrants, reservoirs, and machinery, and such improvements, repairs, and extension thereof as he or she may think proper. The report shall show the amount of receipts and expenditures on account thereof for the preceding 6 months. No money shall be expended for improvements, repairs, or extension of the waterworks system except upon recommendation of the Water Commissioner.

(3) The Water Commissioner shall perform such other duties as may be prescribed by ordinance.

(4) The Water Commissioner shall be paid such salary as the Board of Trustees may by ordinance provide, and upon his or her written recommendation, the Board shall employ such laborers and clerks as may to them seem necessary.

(5) If the village owns public utilities other than the waterworks system and the Water Commissioner has been designated by ordinance as the Public Works Commissioner under the authority of division (A) of this section, then all provisions of this division (B) in reference to a Water Commissioner shall apply to the Public Works Commissioner.

(Neb. RS 17-543)

§ 31.11 VILLAGE ENGINEER; SPECIAL ENGINEER.

(A) The Village Engineer shall, when requested by the Board of Trustees, make estimates of the cost of labor and material which may be done or furnished by contract with the village and make all surveys, estimates, and calculations necessary to be made for the establishment of grades, the building of culverts, sewers, electric light system, waterworks, power plant, public heating system, bridges, curbing, and gutters, the improvement of streets, and the erection and repair of buildings and shall perform such other duties as the Board may require.

(Neb. RS 17-568.01)

(B) The Board of Trustees may, when they deem it expedient, employ a special engineer to make, or assist in making, any estimate necessary or to perform any other duty provided for in Neb. RS 17-568.01. Any work executed by such special engineer shall have the same validity and serve in all respects as though executed by the Village Engineer.

(Neb. RS 17-568)

(C) The Village Engineer shall make a record of the minutes of his or her surveys and of all work done for the village and, when directed by the Board of Trustees, shall accurately make such plats, sections, profiles, and maps as may be necessary in the prosecution of any public work, which shall be public records and belong to the village and be turned over to his or her successor.

Statutory reference:

Duties related to areas to be annexed, see Neb. RS 17-405

Duties related to sewerage systems, see Neb. RS 17-919

CHAPTER 32: DEPARTMENTS, BOARDS, AND COMMISSIONS

Section

Boards and Commissions

- 32.01 Board of Health
- 32.02 Planning Commission
- 32.03 Board of Adjustment
- 32.04 Board of Park Commissioners

Fire Department

- 32.35 Operation and funding
- 32.36 Fire Chief
- 32.37 Membership
- 32.38 Records
- 32.39 Fires
- 32.40 Distant fires
- 32.41 Inspections
- 32.42 Notice of violation
- 32.43 Power of arrest
- 32.44 Fire investigation

BOARDS AND COMMISSIONS

§ 32.01 BOARD OF HEALTH.

(A) (1) The Board of Trustees shall appoint a Board of Health consisting of 3 members: The Chairperson of the Board of Trustees, who shall be chairperson, and 2 other members. One member shall be a physician or health care provider, if 1 can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the Board of Health's medical advisor. If the Board of Trustees has appointed a Village Marshal or Chief of Police, the Marshal or Chief of Police may be appointed to the Board of Health and serve as secretary and quarantine officer.

(2) A majority of the Board of Health shall constitute a quorum and shall enact rules and regulations, which shall have the force and effect of law, to safeguard the health of the people of such

village and prevent nuisances and unsanitary conditions. The Board of Health shall enforce the same and provide fines and punishments for violations.

(3) The appointees shall hold office for 1 year unless removed by the Chairperson of the Board of Trustees with the advice and consent of the Trustees.
(Neb. RS 17-208)

(B) The Board of Health shall reorganize at its meeting each year after the Board of Trustees' meeting when appointments are regularly made and, if necessary, select a member to serve as secretary. No member of the Board of Health shall hold more than 1 Board of Health position. The secretary shall keep full and correct minutes and records of all meetings and file the same with the Village Clerk where they shall be available for public inspection during office hours.

(C) The Board shall meet at such times as the Board of Trustees may designate. Special meetings may be held upon the call of the Chairperson or any 2 members of the Board of Health.

(D) The members of the Board of Health shall serve without compensation. The Board of Health shall be funded by the Board of Trustees from time to time out of the general fund.

(E) The Board of Health may regulate, suppress, and prevent the occurrence of nuisances and enforce all laws of the state and ordinances of the village relating to nuisances and to matters of sanitation which affect the health and safety of the people. The Board shall regularly inspect such premises and businesses as the Board of Trustees may direct.

(F) All members of the Board of Health shall be responsible for making such reports and performing such other duties as the Board of Trustees may, from time to time, designate.

Cross-reference:

Health and safety regulations, see Chapter 91

§ 32.02 PLANNING COMMISSION.

(A) (1) If the Board of Trustees adopts zoning or other regulations pursuant to Neb. RS 19-901 *et seq.*, the Planning Commission shall consist of 5, 7, or 9 regular members, as specified by the Board of Trustees by ordinance, who shall represent, insofar as is possible, the different professions or occupations in the village and shall be appointed by the Chairperson of the Board of Trustees, by and with the approval of a majority vote of the members elected to the Board. Two of the regular members may be residents of the area over which the village is authorized to exercise extraterritorial zoning and subdivision regulation. When there are 200 residents in the area over which the village exercises extraterritorial zoning and subdivision regulation, 1 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 and shall hold no other village office except when appointed to serve on the Board of Adjustment as provided in Neb. RS 19-908. The term of each regular member shall be 3 years, except that 1/3 or fewer of the regular members of the first commission to be so appointed shall serve for terms of 1 year, 1/3 or fewer for terms of 2 years, and the remaining members for terms of 3 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 of the Board with the consent of a majority vote of the members elected to the Board 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 of the Board.

(2) The Chairperson of the Board of Trustees may, with the approval of a majority vote of the elected members of the Board, appoint 1 alternate member to the Planning Commission. The alternate member shall serve without compensation and shall hold no other village office. The term of the alternate member shall be 3 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 of the Board with the approval of a majority vote of the elected members of the Board. 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.
(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 1 year, and he or she shall be eligible for reelection. The Commission shall hold at least 1 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 the 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; and no expenditures nor agreements for expenditures shall be valid in excess of such amounts.
(Neb. RS 19-928)

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

Villages - Administration

(i) 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;

(ii) Prepare and adopt such implemental means as a capital improvement program, subdivision regulations, building codes, and a zoning ordinance in cooperation with other interested village departments; and

(iii) 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.

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

(i) Make and enter into contracts with public or private bodies;

(ii) Receive contributions, bequests, gifts, or grant funds from public or private sources;

(iii) Expend the funds appropriated to it by the village;

(iv) Employ agents and employees; and

(v) 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 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 regarding a conditional use or special exception shall be made to the district court.

(Neb. RS 19-929)

Cross-reference:

Local legislation regarding Planning Commission, see Title XVII

Statutory reference:

Other provisions on planning commissions, see Neb. RS 19-924 through 19-933

§ 32.03 BOARD OF ADJUSTMENT.

(A) If the Board of Trustees adopts zoning or other regulations pursuant to Neb. RS 19-901 et seq., except as provided in division (C), the Board shall provide for the appointment of a Board of Adjustment. Any actions taken by the Board of Adjustment shall not exceed the powers granted by division (G).

(Neb. RS 19-907)

(B) Notwithstanding the provisions of divisions (A) and (D), the Board of Trustees may, except as set forth in division (C), provide by ordinance that it shall constitute a Board of Adjustment, and in the regulations and restrictions adopted pursuant to the authority of Neb. RS 19-901 to 19-905 may provide that as such Board of Adjustment it may exercise only the powers granted to boards of adjustment by division (G). As such Board of Adjustment it shall adopt rules and procedures that are in harmony with divisions (A), (D), (F), and (G) and shall have the powers and duties therein provided for the Board of Adjustment, and other parties shall have all the rights and privileges therein provided for. The concurring vote of 2/3 of the members of the Board of Trustees acting as a Board of Adjustment shall decide any question upon which it is required to pass as such Board.

(Neb. RS 19-911)

(C) If the county has adopted a comprehensive development plan, as defined by Neb. RS 23-114.02, and is enforcing zoning regulations based upon such a plan, the zoning board of adjustment of the county shall, upon request of the Board of Trustees, serve as the zoning Board of Adjustment for the village. If the village is located in more than one county, it shall be served by request or otherwise only by the county zoning board of adjustment of the county in which the greatest area of the village is located, and the jurisdiction of such county zoning board of adjustment shall include all portions of the village and its area of extraterritorial control, regardless of county lines.

(Neb. RS 19-912.01)

(D) (1) The Board of Adjustment shall consist of 5 regular members, plus 1 additional member designated as an alternate who shall attend and serve only when 1 of the regular members is unable to attend for any reason, each to be appointed for a term of 3 years and removable for cause by the appointing authority upon written charges and after public hearings. 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 such 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. 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 village at such time as more than 200 persons reside within such area. Thereafter, at all times, at least 1 member of the Board of Adjustment shall reside outside of the corporate boundaries of the village but within its extraterritorial zoning jurisdiction.

(2) The Board of Adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to Neb. RS 19-901 to 19-914. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board may determine. Such Chairperson, or in his or her absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such 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 a public record.

(Neb. RS 19-908)

(E) A number of members equal to a majority of the number of regular members appointed to the Board of Adjustment shall constitute a quorum for the transaction of any business. All members of an appointed Board of Adjustment shall serve without compensation and shall hold no other village office except for the member of the Planning Commission appointed to serve on the Board of Adjustment. No member of the Board of Adjustment shall serve in the capacity of both Chairperson and Secretary of the Board. 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.

(F) Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the village affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying

the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.
(Neb. RS 19-909)

(G) (1) The Board of Adjustment shall, subject to such appropriate conditions and safeguards as may be established by the Board of Trustees, have only the following powers:

(a) To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures, except that the authority to hear and decide appeals shall not apply to decisions made by the Board of Trustees or Planning Commission regarding a conditional use or special exception under Neb. RS 19-929(3);

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

(c) When 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 such piece of property, the strict application of any enacted regulation under Neb. RS 19-901 and 19-903 to 19-904.01 and divisions (D) and (G) would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution.

(2) (a) No such variance shall be authorized by the Board unless it finds that:

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

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

(iii) The authorization of such 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

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

(b) 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.

(3) In exercising the powers granted in this division (G), the Board may, in conformity with Neb. RS 19-901 to 19-915, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of 4 members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

(Neb. RS 19-910)

(H) Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board, or bureau of the village, may present to the district court a petition duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of such illegality. Such petition must be presented to the court within 15 days after the filing of the decision in the office of the board. Upon the filing of such petition a summons shall be issued and be served upon the Board of Adjustment, together with a copy of the petition. Return of service shall be made within 4 days after the issuance of the summons. Within 10 days after the return day of such summons, the Board of Adjustment shall file an answer to the petition which shall admit or deny the substantial averments of the petition and shall state the contentions of the Board with reference to the matters in dispute as disclosed by the petition. The answer shall be verified in like manner as required for the petition. At the expiration of the time for filing answer, the court shall proceed to hear and determine the cause without delay and shall render judgment thereon according to the forms of law. If, upon the hearing, it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his or her findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. The appeal to the district court shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order. Any appeal from such judgment of the district court shall be prosecuted in accordance with the general laws of the state regulating appeals in actions at law.

(Neb. RS 19-912)

Cross-reference:

Local legislation regarding Board of Adjustment, see Title XVII

§ 32.04 BOARD OF PARK COMMISSIONERS.

(A) If the Board of Trustees has provided for the creation of a Board of Park Commissioners or Board of Park and Recreation Commissioners pursuant to Neb. RS 17-952, the Board shall be composed of not less than 3 members, who shall be residents of the village, and who shall have charge of all parks and recreational facilities belonging to the village, and shall have the power to establish rules for the management, care, and use of the same.

(Neb. RS 17-952)

(B) No member of the Board of Trustees shall serve as a member of the Park Board while serving a term of office as member of the Board of Trustees. The members of the Park Board shall serve terms of office of the length specified by the Board of Trustees and may be reappointed.

(C) The Park Board shall organize at its meeting after appointments are regularly considered by the Board of Trustees and select members to serve as chairperson and secretary. No member of the Park Board shall hold more than one Board position. The secretary shall keep full and correct minutes and records of all meetings and file the same with the Village Clerk where they shall be available for public inspection during office hours.

(D) The Park Board shall meet at such times as the Board of Trustees may designate. Special meetings may be held upon the call of the Chairperson of the Park Board or any 2 members of the Board. A majority of the Park Board members shall constitute a quorum for the transaction of business.

(E) The members of the Park Board shall serve without compensation. The Park Board shall be funded by the Board of Trustees from time to time out of the general fund.

(F) All members of the Park Board shall be responsible for making such reports and performing such other duties as the Board of Trustees may, from time to time, designate.

Cross-reference:

Local legislation regarding Park and/or Recreation Commissioners, see Title XVII

FIRE DEPARTMENT

§ 32.35 OPERATION AND FUNDING.

(A) The village may operate a Fire Department through the Fire Chief and firefighters.

(B) If the village has only a voluntary fire department or companies, the Board of Trustees may levy a tax annually of not more than \$0.07 on each \$100 upon the taxable value of all the taxable property within the village for the maintenance and benefit of the fire department or companies. The amount of such tax shall be established at the beginning of the year and shall be included in the adopted budget

statement. Upon collection of such tax, the Village Treasurer shall disburse the same upon the order of the Fire Chief with the approval of the Board of Trustees.

(Neb. RS 17-718)

Statutory reference:

Fire station acquisition, construction, and maintenance, see Neb. RS 17-953 et seq.

§ 32.36 FIRE CHIEF.

The Fire Chief shall manage the Fire Department, and it shall be his or her duty to inform the Board of Trustees when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the Board of Trustees, the Fire Chief shall cause the repair, improvement, or maintenance of the equipment and shall personally supervise and approve of the same. It shall be the duty of the Fire Chief to come before the Board of Trustees at the regular meeting in January of each year to give an annual report to the Board of Trustees of the general condition and the proposed additions or improvements recommended by him or her.

§ 32.37 MEMBERSHIP.

(A) The Fire Department shall consist of so many members as may be decided by the Board of Trustees. The members may organize themselves in any way they may decide, subject to the review of the Board of Trustees.

(B) The volunteer Fire Department shall not have upon its rolls at one time more than 25 persons, for each engine and hose company in the Fire Department, and no hook and ladder company shall have upon its rolls at any one time more than 25 members. The foreman and secretary of every such company shall, on the first day of April and October in each year, file in the office of the Clerk of the District Court in and for the county a certified copy of the rolls of their respective companies so as to obtain for the members thereof the privilege of the exemption from militia duty in time of peace mentioned in Neb. RS 35-101. No organization shall be deemed to be a bona fide fire or hook and ladder company until it has procured for active service apparatus for the extinguishment or prevention of fires, in case of a hose company, to the value of \$700, and of a hook and ladder company to the value of \$500.
(Neb. RS 35-102)

(C) Members in good standing are those who keep their dues promptly paid up and are present and render active service when called out for the legitimate purposes of the Fire Department.
(Neb. RS 35-103)

(D) Volunteer firefighters of the Fire Department shall be deemed employees of the village while in the performance of their duties as members of the Department. Members of the volunteer Fire Department, before they are entitled to benefits under the Nebraska Workers' Compensation Act, shall be recommended by the Fire Chief or some person authorized to act for the Chief for membership therein to the Chairperson and Board of Trustees and upon confirmation shall be deemed employees of the village. Members of the Fire Department after confirmation to membership may be removed by a

majority vote of the Board of Trustees and thereafter shall not be considered employees of the village. Firefighters of the Fire Department shall be considered as acting in the performance and within the course and scope of their employment when performing activities outside of the corporate limits of the village, but only if directed to do so by the Fire Chief or some person authorized to act for the Chief. (Neb. RS 48-115)

(E) The Board of Trustees shall purchase and maintain in force a policy of group term life insurance to age 65 covering the lives of all of the active volunteer fire and rescue personnel, except that when any such person serves more than 1 village or rural or suburban fire protection district, the policy shall be purchased only by the first village or district which he or she serves. The policy shall provide a minimum death benefit of \$10,000 for death from any cause and shall, at the option of the insured, be convertible to a permanent form of life insurance at age 65. The coverage of such policy shall terminate as to any individual who ceases to be an active volunteer member of the Fire Department. (Neb. RS 35-108)

(F) For purposes of the prohibition on receipt of any witness fee, attendance fee, or mileage fee by an employee of the village called as a witness in connection with his or her officially assigned duties, volunteer firefighters and rescue squad members testifying in that capacity alone shall not be deemed employees of the village. (Neb. RS 33-139.01)

(G) The Board of Trustees may compensate or reimburse any member of the Fire Department for expenses incurred in carrying out his or her duties in an amount set by resolution.

(H) All members of the Fire Department shall be subject to such rules and regulations, and shall perform such duties, as may be prescribed or required of them by the Fire Chief or the Board of Trustees. 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 village code or the laws of the state.

(I) Members of the Fire Department may hold meetings and engage in social activities with the approval of the Board of Trustees. The secretary shall, upon request, keep a record of all meetings and shall make a report to the Board of Trustees of all meetings and activities of the Fire Department.

§ 32.38 RECORDS.

The Fire Chief shall keep or cause to be kept a record of all meetings of the Fire Department, the attendance record of all members, and a record of all fires and shall make a full report of these records to the Village Clerk during the last week in April each year. The record of any fire shall include the cause, origin, circumstances, property involved, and whether criminal conduct may have been involved. In the event of sizable property damage, the Fire Chief shall include the information of whether the losses were covered by insurance, and if so, in what amount. All records shall be available to the public at any reasonable time.

§ 32.39 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 village, and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention.

§ 32.40 DISTANT FIRES.

(A) Upon the permission of the Chairperson of the Board of Trustees or the Fire Chief, or pursuant to any agreement with a rural fire district for mutual aid protection, such fire equipment of the village as may be designated by the Board of Trustees as rural equipment may be used beyond the corporate limits to extinguish reported fires.

(B) The firefighters of the village 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 village when directed to do so by the Board of Trustees or the Fire Chief or some person authorized to act for the Chief, and in so doing, may take such fire equipment of the village as may be designated by the Board of Trustees.

§ 32.41 INSPECTIONS.

(A) The Fire Chief where a Fire department is established or the Chairperson of the Board of Trustees where no Fire Department exists, at all reasonable hours, may enter into all buildings and upon all premises within his or her jurisdiction for the purposes of examination, in harmony with Neb. RS 81-501.01 to 81-531, the Nebraska Natural Gas Pipeline Safety Act of 1969, the Petroleum Products and Hazardous Substances Storage and Handling Act, and any other statutory duties imposed upon the State Fire Marshal.

(Neb. RS 81-512)

(B) It shall be the duty of the Fire Chief, when directed to do so by the Board of Trustees, to inspect or cause to be inspected by Fire Department officers, members, or some other official as often as may be necessary, but not less than 2 times a year, all buildings, premises, and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to create a fire hazard. The inspection shall be of the storage, sale, and use of flammable liquids, combustibles, and explosives; electric wiring and heating; the means and adequacy of exits, in case of fire in schools, churches, hotels, halls, theaters, factories, hospitals, and all other buildings in which numbers of persons congregate from time to time for any purpose whether publicly or privately owned; the design, construction, location, installation, and operation of equipment for storing, handling, and utilizing liquefied petroleum gases, specifying the odorization of such gases and the degree thereof; and chemicals, prozylin plastics, nitrocellulose films, or any other hazardous material that may now or hereafter exist.

§ 32.42 NOTICE OF VIOLATION.

(A) Upon the finding that the village code has been violated, the Fire Chief shall notify, or cause to be notified, the owner, occupant, or manager of the premises where a violation has occurred. Notice may be made personally or by delivering a copy to the premise and affixing it to the door of the main entrance of the premises. Whenever it may be necessary to serve such an order upon the owner, the order may be served personally, or by mailing a copy to the owner's last known post office address if the owner is absent from the jurisdiction.

(B) Any such order shall be immediately complied with by the owner, occupant, or manager of the premises or building. The owner, occupant, or manager may, within 5 days after such an order by the Fire Chief or his or her agent, appeal the order with the Board of Trustees requesting a review and it shall be the duty of the Board of Trustees to hear the same within not less than 5 days nor more than 10 days from the time when the request was filed in writing with the Village Clerk. The Board of Trustees shall then affirm, modify, or rescind the order as safety and justice may require and the decision shall then be final, subject only to any remedy which the aggrieved person may have at law or equity. The order shall be modified or rescinded only where it is evident that reasonable safety exists and that conditions necessitate a variance due to the probable hardship in complying literally with the order of the Fire Chief. A copy of any decision so made shall be sent to both the Fire Chief and the owner, occupant, or manager making the appeal.

§ 32.43 POWER OF ARREST.

The 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 village police officers to command all persons to assist them in the performance of their duties. Failure to obey a lawful order of the Fire Chief or Assistant Fire Chief shall be an offense.

Penalty, see § 10.99

§ 32.44 FIRE INVESTIGATION.

The Fire Chief shall investigate or cause to be investigated the cause, origin, and circumstances of every fire occurring in the village by which property has been destroyed or damaged. All fires of unknown origin shall be reported, and such officer shall especially make an investigation and report as to whether such fire was the result of carelessness, accident, or design. The investigation shall begin immediately after 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. The officer making the investigation of fires occurring in the village shall forthwith notify the State Fire Marshal and shall within 1 week of the occurrence of the fire furnish him or her a written statement of all the facts relating to the cause and origin of the fire and such further information as he or she may call for.

(Neb. RS 81-506)

CHAPTER 33: GENERAL PROVISIONS

Section

Meetings

- 33.01 Definitions
- 33.02 Open to public; notice; agenda
- 33.03 Notice to news media
- 33.04 Village Board meetings; when; where; quorum
- 33.05 Emergency meetings
- 33.06 Attendance other than in person
- 33.07 Closed sessions
- 33.08 Prohibited acts; exempt events
- 33.09 Public participation
- 33.10 Village Board; order of business
- 33.11 Votes
- 33.12 Village Board; parliamentary procedure
- 33.13 Minutes
- 33.14 Village Board; change in office

Bonds and Oaths

- 33.30 Bonds; requirements
- 33.31 Oath of office; village officials

Compensation; Conflicts of Interest

- 33.45 Compensation; how fixed; limitations
- 33.46 Conflict of interest involving contracts

MEETINGS

§ 33.01 DEFINITIONS.

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

MEETING. All regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body.

PUBLIC BODY.

(1) (a) The Board of Trustees;

(b) All independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, ordinance, or otherwise pursuant to law; and

(c) Advisory committees of the bodies listed above.

(2) **PUBLIC BODY** does not include subcommittees of such 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.

(Neb. RS 84-1409)

§ 33.02 OPEN TO PUBLIC; NOTICE; AGENDA.

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

(Neb. RS 84-1408)

(B) Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by the public body and recorded in its minutes. The notice shall be transmitted to all members of the public body and to the public. The notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, is readily available for public inspection at the office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours before the scheduled commencement of the meeting or 48 hours before the scheduled commencement of a meeting of the Board of Trustees scheduled outside the corporate limits of the village. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(Neb. RS 84-1411)

§ 33.03 NOTICE TO NEWS MEDIA.

The Village Clerk, in the case of the Board of Trustees, and the secretary or other designee of each other 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.

(Neb. RS 84-1411)

§ 33.04 VILLAGE BOARD MEETINGS; WHEN; WHERE; QUORUM.

(A) (1) The Board of Trustees shall, by ordinance, fix the time and place of holding its stated meetings and may be convened at any time by the Chairperson.

(Neb. RS 17-204)

(2) Unless otherwise provided by the Board, special meetings may also be called by any 3 members of the Board of Trustees. The object of a special meeting shall be submitted to the Village Clerk in writing. The call and object, as well as the disposition thereof, shall be entered upon the journal by the Clerk. On filing the call for a special meeting, the Clerk shall notify the members of the Board of Trustees of the special meeting, stating the time and its purpose.

(B) At the hour specified for a meeting, the Village Clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the Board shall be called to order by the Chairperson.

(C) (1) At all meetings of the Board of Trustees, a majority of the trustees shall constitute a quorum to do business. A smaller number may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as the Board by ordinance may have previously prescribed.

(Neb. RS 17-205)

(2) Unless otherwise provided by the Board, on the request of any 2 members, whether a quorum is present or not, all absent members shall be sent for and compelled to attend.

§ 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 that meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of § 33.03 shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(Neb. RS 84-1411)

§ 33.06 ATTENDANCE OTHER THAN IN PERSON.

A public body may allow a member of the public or any other witness other than a member of the public body to appear before the public body by means of video or telecommunications equipment. (Neb. RS 84-1411)

§ 33.07 CLOSED SESSIONS.

(A) (1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if that individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

(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 that 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 entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter at the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close 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 means 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) of this section.

(C) Any member of any 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. Such 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. (Neb. RS 84-1410)

§ 33.08 PROHIBITED ACTS; EXEMPT EVENTS.

(A) 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 this subchapter or the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or electronic communication shall be used for the purpose of circumventing the requirements of this subchapter or the Act.

(B) This subchapter and the Act do 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, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power. (Neb. RS 84-1410)

§ 33.09 PUBLIC PARTICIPATION.

(A) Subject to this subchapter and the Open Meetings Act, the public has 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 sessions called pursuant to § 33.07, 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 division (A) 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 nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body may require any member of the public desiring to address the body to identify himself or herself.

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

(E) 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.

(F) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if, a member entity of the public body is located outside of this state and the other requirements of Neb. RS 84-1412 are met.

(G) 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.

(H) Public bodies shall make available at the meeting, for examination and copying by members of the public, at least 1 copy of all reproducible written material to be discussed at an open meeting. Public bodies shall make available at least 1 current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

(Neb. RS 84-1412)

§ 33.10 VILLAGE BOARD; ORDER OF BUSINESS.

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

§ 33.11 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. 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 Board of Trustees to be readily seen by the public.

(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.

(Neb. RS 84-1413)

Cross-reference:

Votes on ordinances, appropriations of money, and contracts, see § 30.39

§ 33.12 VILLAGE BOARD; PARLIAMENTARY PROCEDURE.

Unless the Board of Trustees provides otherwise, the rules of parliamentary procedure specified in this section shall apply to meetings of the Board of Trustees. The Chairperson shall preserve order during meetings of the Board of Trustees and shall decide all questions of order, subject to an appeal to the Board. When any person is called to order, he or she shall be seated until the point is decided. When the Chairperson is putting the question, no person shall leave the meeting room. Every person present, previous to speaking, shall rise from his or her seat and address the presiding officer and while speaking shall confine his or her comments to the question. When 2 or more persons rise at once, the Chairperson shall recognize the one who spoke first. All resolutions or motions shall be reduced to writing before being acted upon, if requested by the Village Clerk or any member of the Board. Every member of the Board who is present when a question is voted upon shall cast his or her vote unless excused by a majority of the members of the Board present. No motion shall be put or debated unless seconded. When seconded, it shall be stated by the Chairperson before being debatable. In all cases where a motion or resolution is entered on the minutes, the name of the member of the Board making the motion or resolution shall be entered also. After each vote, the “yeas” and “nays” shall be taken and entered in the minutes. Before the vote is actually taken, any resolution, motion, or proposed ordinance may be withdrawn from consideration by the sponsor with the consent of the member of the Board seconding the resolution, motion, or ordinance. When, in the consideration of an ordinance, different times or amounts are proposed, the question shall be put on the largest sum, or the longest time. A question to reconsider shall be in order when made by a member voting with the majority, but the motion to reconsider must be made before the expiration of the third regular meeting after the initial consideration of the question. When any question is under debate, no motion shall be made, entertained, or seconded except the previous question, a motion to table, and to adjourn. Each of those motions shall be decided without debate. Any of the rules of the Board for meetings may be suspended by a 2/3 vote of the members present. In all cases in which provisions are not made by these rules, Robert’s Rules of Order is the authority by which the Board shall decide all procedural disputes that may arise.

§ 33.13 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 of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(C) Minutes shall be written and available for inspection within 10 working days or prior to the next convened meeting, whichever occurs earlier, except that the village may have an additional 10 working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency. (Neb. RS 84-1413)

§ 33.14 VILLAGE BOARD; CHANGE IN OFFICE.

(A) The Board of Trustees shall meet at the time and place of the regular meeting in December in each election year, and the outgoing officers and the outgoing members of the Board shall present their reports. 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 their successors in office all property, records, papers, and moneys belonging to the same.

(B) The newly elected Trustees and those continuing in office shall convene immediately after the prior Board adjourns and proceed to organize themselves for the ensuing year. The Chairperson pro tempore shall call the meeting to order. The Clerk shall report to the Board the names of all Trustees-elect who have qualified for their respective offices. The Board shall examine the credentials of its members and any other elective officers of the village to see that each has been duly and properly elected and to see that such oaths and bonds as are required have been given. The Clerk's report shall be spread upon the minutes of the meeting preceding the roll call.

(C) After ascertaining that all Trustees and officers are duly qualified and after the Clerk has called the roll, the Board shall elect a Chairperson and shall appoint the officers required by state law or village ordinance. The Chairperson shall then proceed with the regular order of business.

BONDS AND OATHS**§ 33.30 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:

(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 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 2 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 2 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)

Villages - Administration

(H) No official bond shall be rendered void by reason of any informality of 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 10 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 2 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.

§ 33.31 OATH OF OFFICE; VILLAGE OFFICIALS.

(A) 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.”

(B) If any such officer is not required to give bond, the oath shall be filed with the Village Clerk.
(Neb. RS 11-101)

COMPENSATION; CONFLICTS OF INTEREST

§ 33.45 COMPENSATION; HOW FIXED; LIMITATIONS.

(A) The appointive officials and other employees of the village shall receive such compensation as the Board of Trustees shall designate by ordinance; and the annual salary of the Chairperson and other members of the Board of Trustees shall be fixed by ordinance.
(Neb. RS 17-209)

(B) Trustees may perform and upon Board approval receive compensation for seasonal or emergency work subject to §33.46.
(Neb. RS 17-209.02)

(C) The village may enact ordinances or bylaws to regulate and prescribe the compensation of officers not provided for in state law.
(Neb. RS 17-604)

(D) No officer shall receive any pay or perquisites from the village other than his or her salary. The Board of Trustees shall not pay or appropriate any money or other valuable thing to any person not an

officer for the performance of any act, service, or duty, the doing or performance of which shall come within the proper scope of the duties of any officer of the village.

(Neb. RS 17-611)

(E) The emoluments of any elective officer shall not be increased or diminished during the term for which he or she shall have been elected, except when there has been a combination and merger of offices as provided in § 31.03, except that when there are officers elected to the Board of Trustees, or any other board or commission having more than one member and the terms of one or more members commence and end at different times, the compensation of all members of such board or commission may be increased or diminished at the beginning of the full term of any member thereof. No person who shall have resigned or vacated any office shall be eligible to the same during the time for which he or she was elected if during the same time the emoluments thereof were increased.

(Neb. RS 17-612)

§ 33.46 CONFLICT OF INTEREST INVOLVING CONTRACTS.

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

BUSINESS ASSOCIATION.

(a) A business:

1. In which the individual is a partner, limited liability company member, director, or officer; or
2. 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.

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

(Neb. RS 49-1408)

IMMEDIATE FAMILY. A child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes.

(Neb. RS 49-1425)

OFFICER.

(a) Includes:

1. A member of any board or commission of the village which spends and administers its own funds, who is dealing with a contract made by that board or commission; or

2. Any elected village official.

(b) **OFFICER** does not mean volunteer firefighters or ambulance drivers with respect to their duties as firefighters or ambulance drivers.

(B) (1) Except as provided in Neb. RS 49-1499.04 or 70-624.04, no officer may have an interest in any contract to which his or her governing body, or anyone for its benefit, 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 of the contract 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 governing body, or any resident within the jurisdiction of the governing body, and shall be brought within 1 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 governing body has benefitted thereby.

(2) The prohibition in this division (B) 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) Division (B) of this section does not apply if the contract is an agenda item approved at a meeting of the governing body and the interested officer:

(1) Makes a declaration on the record to the governing 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 matters 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 governing body declaring an interest in the contract would prevent the body with all members present from securing a quorum on the issue, then all members may vote on the matters; and

(3) Does not act for the governing body which is a party to the contract as to inspection or performance under the contract in which he or she has an interest.

(D) An officer who has no business association with the business involved in the contract, or 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 any such governing body by a financial institution shall not be considered a contract for purposes 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 officer's governing body, the officer may vote on all issues of the contract which are generally applicable to all employees, or all employees within a classification, and do not single out his or her parent, spouse, or child for special action.

(G) Neb. RS 49-14,102 does not apply to contracts covered by this section.
(Neb. RS 49-14,103.01)

(H) (1) The person charged with keeping records for the governing body shall maintain separately from other records a ledger containing the information listed in divisions (H)(1)(a) through (H)(1)(e) of this section about every contract entered into by the governing body in which an officer of the body has an interest and for which disclosure is made pursuant to division (C) of this section. This information shall be kept in the ledger for 5 years from the date of the officer's last day in office and shall include:

- (a) The names of the contracting parties;
- (b) The nature of the interest of the officer in question;
- (c) The date that the contract was approved by the governing body;
- (d) The amount of the contract; and
- (e) The basic terms of the contract.

(2) The information supplied relative to the contract shall be provided no later than 10 days after the contract has been signed by both parties. The ledger kept pursuant to this division (H) shall be available for public inspection during the normal working hours of the office in which it is kept.
(Neb. RS 49-14,103.02)

(I) An open account established for the benefit of any governing body with a business in which an officer has an interest shall be deemed a contract subject to this section. The statement required to be filed by division (H) of this section shall be filed within 10 days after the account is opened. Thereafter, the person charged with keeping records for the governing body shall maintain a running account of amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to this section.
(Neb. RS 49-14,103.03)

(J) Notwithstanding divisions (A) through (I) of this section, the governing body may prohibit contracts over a specific dollar amount in which an officer of the governing body may have an interest.
(Neb. RS 49-14,103.05)

(K) The governing body may exempt from divisions (A) through (I) of this section, contracts involving \$100 or less in which an officer of that body may have an interest.

(Neb. RS 49-14,103.06)

Statutory reference:

Other provisions on conflicts of interest, see Neb. RS 18-305 through 18-312 and 49-1499.03 through 49-14,103

Penalty for violation of restrictions on contracts, see Neb. RS 49-14,103.04

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 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)

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 10 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.

(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:

(i) Real property used as a home;

(ii) Household goods of a moderate value used in the home; and

(iii) 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 10 days before the filing deadline for that election, and the Board of Trustees shall publish notice of the caucus in at least 1 newspaper of general circulation in the county at least once each week for 2 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 2 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 5 days after the caucus. No candidate so nominated shall have his or her name placed upon the ballot unless, not more than 10 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 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 divisions (B) and (C) of 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 village 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 20% of the total vote for Governor or President of the United States at the immediately preceding general election within the village or in the ward in which the officer is to be elected, as appropriate, not to exceed 2,000. (Neb. RS 32-618)

§ 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 1 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.

(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 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 6 months after the beginning of his or her term of office or within 6 months prior to the incumbent filing deadline for the office.
(Neb. RS 32-1309)

§ 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

CHAPTER 35: FINANCE AND REVENUE

Section

General Provisions

- 35.01 Definitions
- 35.02 Annual audit; financial statements
- 35.03 Contracts and purchases; bidding and other requirements
- 35.04 Orders or warrants for money; contracts; expenditures; requirements
- 35.05 Claims and accounts payable
- 35.06 Collection of special assessments; procedure
- 35.07 Special assessment fund
- 35.08 Sinking funds; gifts of money or property
- 35.09 Deposit of funds
- 35.10 Certificates of deposit; time deposits; conditions
- 35.11 Investment and use of surplus funds
- 35.12 Bond issues
- 35.13 Debt collection; authority to contract with collection agency
- 35.14 Credit cards; authority to accept

Annual Budget

- 35.25 Fiscal year
- 35.26 Budget procedures
- 35.27 Expenditures prior to adoption of budget
- 35.28 Proposed budget statement; contents; availability; correction
- 35.29 Proposed budget statement; hearing; adoption; certification of tax amount
- 35.30 Adopted budget statement; filing; certification of tax amount
- 35.31 Appropriation bill
- 35.32 General Fund
- 35.33 Transfer of funds
- 35.34 Budget revision
- 35.35 Proprietary functions; fiscal year; budget statements; filing; hearing; adoption; reconciliation

Tax Levies

- 35.45 Property tax levy for general revenue purposes
- 35.46 Levies for other taxes and special assessments

- 35.47 All-purpose levy; extraordinary levies; allocation; abandonment
- 35.48 Property tax levy; maximum; authority to exceed
- 35.49 Property tax levy; certification of amount; collection
- 35.50 Property tax request; procedure for setting
- 35.51 Motor vehicle fee

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 city'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)

§ 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.

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)

(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 6 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 3 copies of such annual audit report shall be properly signed and attested by the accountant; 2 copies shall be filed with the Village Clerk, and 1 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

§ 35.03 CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS.

(A) Except as provided in Neb. RS 18-412.01 for a contract with a public power district to operate, renew, replace, or add to the electric distribution, transmission, or generation system of the village, no contract for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of the 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 system, bridges, work on streets, or any other work or improvement when the cost of the enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the Village Engineer and submitted to the Board 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 system, 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 village 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 village electric utility has gross annual revenue from retail sales in excess of \$1,000,000;

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

(4) \$120,000 or less and the village 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 7 days prior to the bid closing in a legal newspaper published in or of general circulation in the village, and if there is no legal newspaper published in or of general circulation in the village, then in some newspaper of general circulation published in the county in which the village is located, and if there is no legal newspaper of general circulation published in the county in which the village is located, then in a

newspaper, designated by the County Board, having a general circulation within the county where bids are required, and if no newspaper is published in the village or county, or if no newspaper has general circulation in the county, then by posting a written or printed copy thereof in each of 3 public places in the village at least 7 days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency 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 3/4 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 2 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, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the village, the Board of Trustees 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 village bidding procedure may be waived by the Board of Trustees:

(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)

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. RS 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. RS 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;

(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.

(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 5 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 10 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 10 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 10 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 3 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 1 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 1 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)

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)

§ 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 § 35.29. 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

(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)

§ 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 5 days prior to the date set for 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 Board of Trustee's principal headquarters.

(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.

(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 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 Board of such errors. The Board shall correct any such error as provided in § 35.34. 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 Board.

(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)

§ 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) 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 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 § 35.28.

(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)

§ 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

(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 5 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.

(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 1 time at least 5 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 1 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 1 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).

Villages - Administration

(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 2/3 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 5 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.

(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 1 resolution calling for an election pursuant to this division (C) during any 1 calendar year. Only 1 election may be held in any 1 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 1 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 2/3 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 5 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. RS 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 5 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 VILLAGE. Includes the extraterritorial zoning jurisdiction of the village.

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 village 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 village 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 village 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 village and does not own and operate a motor vehicle within the limits of the village; or

(3) An individual is a full-time student attending a postsecondary institution within the limits of the village 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 village.

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

(Neb. RS 18-1214)

Statutory reference:

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