

## **CHAPTER 1 – CIVIL ADMINISTRATION**

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## **CHAPTER 1 – CIVIL ADMINISTRATION**

### **Article 1 – Village Administration**

#### **SECTION 1-101: CORPORATE EXISTENCE**

The Village of McCool Junction, Nebraska, having a population of fewer than 800 inhabitants, is hereby declared to be a village and shall be governed in all respects by the laws regulating villages. (Neb. Rev. Stat. §17-201)

#### **SECTION 1-102: OFFICIAL CORPORATE SEAL**

The official corporate seal of the Village shall be kept in the office of the village clerk and may bear the following inscription: "Seal, Village of McCool Junction, Nebraska." The village clerk shall affix an impression of the said official seal to all warrants, licenses, permits, ordinances, and all other official papers issued by order of the Village Board and countersigned by him or her. (Neb. Rev. Stat. §17-502)

#### **SECTION 1-103: BONDS; FORM**

A. Official bonds of the Village shall be in form, joint and several, and shall be made payable to the Village in such penalty as the Village Board may set by resolution; provided, the penalty amount on any bond shall not fall below the legal minimum when one has been set by the State of Nebraska for each particular official. All official bonds of village officials shall be executed by the principal named in such bonds and by at least two sufficient sureties who shall be freeholders of the county or by the official as principal and by a guaranty, surety, fidelity, or bonding company; provided, no village official, while still in his or her official term of office, shall be accepted as surety on any other official's bond, contractor's bond, license bond, or appeal bond under any circumstances. Only companies that are legally authorized to transact business in the State of Nebraska shall be eligible for suretyship on the bond of an official of the Village.

B. All said 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 the Village and any persons who may be injured by a breach of the conditions of such bonds. No bond shall be deemed to be given or complete until approved by the Village Board and all sureties are endorsed in writing on the said instrument by the chairman and village clerk pursuant to the said approval of the board. All official bonds meeting the conditions herein shall be filed with the village clerk for the official records and it shall be the duty of the clerk to furnish a certified copy of any bond so filed upon the payment of a fee which shall be set by resolution of the Village Board.

C. The premium on any official bond required to be given may be paid out of the general fund or other proper village fund upon a resolution to that effect by the Village Board at the beginning of any village year. All surety and other bonds re-

quired by village ordinances or by Nebraska law for village officials may be provided by the purchase of a blanket bond, undertaking or equivalent insurance. The Village 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 Village Board and on such terms and conditions as may be required.

D. If the sureties on the official bond of any officer of the Village become insufficient in the opinion of the Village Board, it may by resolution fix a reasonable time within which the said officer may give a new bond or additional sureties as directed. In the event that the officer should fail, refuse, or neglect to give a new bond or additional sureties to the satisfaction and approval of the Village Board, then 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 said office. Any official reelected to office shall be required to file a new bond after each election.

(Neb. Rev. Stat. §11-104, 11-105, 11-110 through 11-119, 11-121, 11-122, 17-604)

**SECTION 1-104: OATH OF OFFICE**

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 abilities; 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 in the office of the secretary of state or with the village clerk.

(Neb. Rev. Stat. §11-101)

**SECTION 1-105: SALARIES**

A. All salaries of elected and appointed officials shall be set by ordinance and kept on file in the office of the village clerk, available to the public for inspection during office hours.

B. The compensation of any elective official of the Village shall not be increased nor diminished during the term for which he or she shall have been elected except when there has been a merger of offices; provided, the compensation of the members of the Village Board or a board or commission may be increased or diminished at the beginning of the full term of any member whether or not the terms of one or more members commence and end at different times.

C. No elected official may be rehired at a greater salary if he or she resigns and desires to be rehired during the unexpired term of office. Said official may be rehired at a greater salary after the term of office during which he or she resigned. (Neb. Rev. Stat. §17-209, 17-612)

### **SECTION 1-106: CONFLICT OF INTEREST**

A. For purposes of this section, "officer" shall mean (1) any member of any board or commission of the Village; (2) any appointed official if such village official serves on a board or commission which spends and administers its own funds and is dealing with a contract made by such board or commission, or (3) any elected village official.

B. Unless specified otherwise, volunteer firefighters and ambulance drivers shall not be considered officers for purposes of this section with respect to their duties as firefighters and ambulance drivers.

C. No officer of the Village shall be permitted to benefit from any contract to which the Village is a party. The existence of such an interest in any contract renders the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment thereof with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the Village or by any resident thereof and must be brought within one year after the contract is signed or assigned. Any such decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the Village has benefited thereby. The prohibition in this section shall apply only when the officer or his or her parent, spouse, or child:

1. Has a business with which the individual is associated or a business association which shall mean a business (a) in which the individual is a partner, director or officer or (b) in which the individual or a member of the individual's immediate family is a stockholder of a closed corporation stock worth \$1,000.00 or more at fair market value or which represents more than 5% equity interest, or is a stockholder of publicly traded stock worth \$10,000.00 or more at fair market value or which represents more than 10% equity interest; or
2. Will receive a direct pecuniary fee or commission as a result of the con-

tract; provided, however, if such officer is an employee of the business involved in the contract and has no ownership interest or will not receive a pecuniary fee, such officer shall not be deemed to have an interest within the meaning of this section.

D. The provisions of this section shall not apply if the interested officer:

1. Makes a declaration on the record to the governmental body responsible for approving the contract regarding the nature and extent of his or her interest, prior to official consideration of the contract;
2. Does not vote on the matter of granting the contract, except that if the number of members of the 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 matter; and
3. Does not act for the governing body as to inspection or performance under the contract in which he or she has an interest.

E. The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any village by a financial institution shall not be considered a contract under the provisions of this section. The ownership of less than 5% of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section. Notwithstanding the provisions of subsections (D) (1) through (3) above, if an officer's parent, spouse or child is an employee of the Village, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his or her parent, spouse, or child for special action. If an officer has the power to employ personnel and he or she hires his or her parent, spouse, or child, such officer shall disclose the hiring pursuant to subsections (F) (1) through (5) below, except that if the parent, spouse, or child is already employed in the position at the time the officer takes office and such position does not change, no disclosure need be made. Notwithstanding any other provision of this section, any contract entered into with an interested officer shall be subject to applicable competitive bidding requirements and shall be fair and reasonable to the Village.

F. The village clerk shall maintain, separately from other records, a ledger containing the information listed in this subsection about every contract entered into by the Village in which an officer has an interest as specified above for which disclosure is made as provided in subsections (D) (1) through (3) above. Such information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include the (1) names of the contracting parties; (2) nature of the interest of the officer in question; (3) date that the contract was approved by the Village; (4) amount of the contract; and (5) basic terms of the contract.

G. The information supplied relative to the contract shall be provided to the



clerk not later than ten days after the contract has been signed by both parties. The ledger kept by the clerk shall be available for public inspection during normal working hours.

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

I. Any officer who knowingly violates the provisions of Neb. Rev. Stat. §49-14,103.01 through 49-14,103.03 shall be guilty of a Class III misdemeanor. Any officer who negligently violates Neb. Rev. Stat. §49-14-103.01 through 49-14,103.03 shall be guilty of a Class V misdemeanor.

J. The Village may enact ordinances exempting from the provisions of this section contracts involving \$100.00 or less in which an officer of such village may have an interest.

K. No officer shall receive any pay or perquisites from the Village other than his or her salary. The Village Board shall not pay or appropriate any money or other valuable thing to pay a person who is not an officer for the performance of any act, service, or duty which shall come within the proper scope of the duties of any officer of the Village.

(Neb. Rev. Stat. §17-611, 18-305 through 18-312, 49-1408, 49-14,103.01 through 49-14,103.03, 49-14,103.06)



## Article 2 – Village Board

### SECTION 1-201: 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 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. Rev. Stat. §17-207)

B. The Village has the power and authority by ordinance to define, regulate, suppress and prevent nuisances, to declare what constitutes a nuisance, and to abate and remove the same. The Village may exercise such power and authority within its zoning jurisdiction. (Neb. Rev. Stat. §18-1720)

### SECTION 1-202: NUMBER AND QUALIFICATIONS

The Board of Trustees shall consist of five members. Any person who is a citizen of the United States, a resident of the Village at the time of his or her election and a registered voter is eligible to be elected to the board. Every trustee so elected and so qualified shall hold his or her office for a term of four years; provided, a trustee's term shall expire and the office will become vacant upon a change of residence from the Village. (Neb. Rev. Stat. §17-202, 17-203)

### SECTION 1-203: VACANCY

A. Every elective office shall be vacant upon the happening of any of the events specified in Neb. Rev. Stat. §32-560, except as provided in Neb. Rev. Stat. §32-561.

B. Except as otherwise provided in subsection (C) or (D) of this section, vacancies in elected offices shall be filled by the Village Board for the balance of the unexpired term. Notice of 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 such meeting. The Village Board shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the Village or by posting in three public places in the Village the office vacated and the length of the unexpired term.

C. The chairman of the Village Board shall call a special meeting or place the issue of filling such vacancy on the agenda at the next regular meeting, at which time he or she 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 within four weeks after the meeting at which such notice of vacancy has been presented or within four weeks after the death of the incumbent. The board shall vote upon such nominee and if a majority votes in favor of such nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the chairman 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 chairman shall continue at such meeting to submit the names of qualified registered voters in nomination and the board members shall continue to vote upon such nominations at such meeting until the vacancy is filled. All board members 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 such person were elected.

D. The board may, in lieu of filling a vacancy in the elected office as provided in subsection (A) of this section, call a special election to fill such vacancy.

E. If vacancies exist in the offices of a majority of the members of the Village Board, the secretary of state shall conduct a special election to fill such vacancies.

F. Any vacancy due to a recall election shall be filled as provided in Neb. Rev. Stat. §32-1308.  
(Neb. Rev. Stat. §32-569, 32-1308)

#### **SECTION 1-204: VACANCY DUE TO UNEXCUSED ABSENCES**

In addition to the events listed in Neb. Rev. Stat. §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 five consecutive regular meetings of the board unless the absences are excused by a majority vote of the remaining members. (Neb. Rev. Stat. §19-3101)

#### **SECTION 1-205: CHAIRMAN; SELECTION AND DUTIES**

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

the chairman shall be the same general qualifications that apply to the members of the Board of Trustees. (Neb. Rev. Stat. §17-203, 17- 204, 17-210)

#### **SECTION 1-206: MEETINGS; DEFINED**

“Meetings” shall mean all regular, special, or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action. (Neb. Rev. Stat. §84-1409(2))

#### **SECTION 1-207: PUBLIC BODY; DEFINED**

“Public body” as used in this article shall mean (A) the Village Board of Trustees; (B) all independent boards, commissions, bureaus, committees, councils, sub-units, or any other bodies now or hereafter created by Constitution, statute, ordinance or otherwise pursuant to law; and (C) advisory committees of the bodies listed. This section shall not apply to subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy or taking formal action on behalf of their parent bodies. (Neb. Rev. Stat. §84-1409(1))

#### **SECTION 1-208: MEETINGS; RIGHTS OF THE PUBLIC**

A. Subject to the Open Meetings Act, the public shall have the right to attend and the right to speak at meetings of public bodies and all or any part of a meeting of a public body, except for closed meetings called pursuant to Section 1-217, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

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

C. No public body shall require members of the public to identify themselves as a condition for admission to the meeting 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 the Open Meetings Act hold a meeting in a place known by the body to be too small to accommodate the anticipated audience. No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

E. The public body shall, upon request, make a reasonable effort to accom-

modate the public's right to hear the discussion and testimony presented at the meeting.

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

(Neb. Rev. Stat. §84-1408, 84-1412)

### **SECTION 1-209: MEETINGS; NOTICE; AGENDA**

A. The advance publicized notice of all board meetings shall be simultaneously transmitted to all members of the Village Board and to the public by a method designated by the board or by the chairman if the board has not designated a method. Such notice shall contain the time and specific place for each meeting and either an enumeration of the agenda subjects known at the time of the notice or a statement that such an agenda, kept continually current, shall be readily available for public inspection at the office of the village clerk.

B. 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 Village Board scheduled outside the corporate limits of the Village. The board shall have the right to modify the agenda to include items of an emergency nature only at such public meetings.

(Neb. Rev. Stat. §84-1411(1))

### **SECTION 1-210: MEETINGS; NOTICE TO NEWS MEDIA**

The village clerk 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. (Neb. Rev. Stat. §84-1411(4))

### **SECTION 1-211: MEETINGS; DAY, PLACE, TIME; QUORUM**

A. The regular meetings of the Village Board shall be held on the first Monday of each month at the announced time in the meeting place of the Village.

B. At all meetings of the Board of Trustees, a majority of the members 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 of Trustees may have previously prescribed by ordinance.

(Neb. Rev. Stat. §17-204, 17-205)

**SECTION 1-212: MEETINGS; REORGANIZATIONAL; STANDING COMMITTEES**

A. All trustees elected to office shall qualify and meet on the first regular meeting of the Village Board in December thereafter, organize, elect a chairman, and appoint the officers required by law. The board shall, by ordinance, fix the time and place of holding its stated meetings and may be convened at any time by the chairman.

B. 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.

C. At the reorganizational meeting, the chairman shall appoint members to the following standing committees: Finance Committee, Street and Alley Committee. The membership of such committees may be changed at any time by the chairman, who shall be an ex officio member of each standing committee. The members of the committees shall serve terms of office of one year unless reappointed.

(Neb. Rev. Stat. §17-204)

**SECTION 1-213: MEETINGS; 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 as 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 manner prescribed by the official agenda on file at the office of the village clerk.

**SECTION 1-214: MEETINGS; PARLIAMENTARY PROCEDURE**

A. The chairman shall preserve order during meetings of the Village Board 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 chairman is putting the question, no person shall leave the meeting room. Every person present, before speaking, shall rise from his or her seat and address himself or herself to the presiding officer and while speaking shall confine himself/herself to the question. When two or more persons rise at once, the chairman shall recognize the one who spoke first.

B. All resolutions or motions shall be reduced to writing before being acted upon, if requested by the village clerk or any member of the Village 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 Village Board present. No motion shall be put or debated unless seconded. When seconded, it shall be stated by the chairman before being debatable. In all cases where a motion or resolution is entered on the minutes, the name of the board member making the motion, or resolution shall be entered also. After each vote, the "yeas" and "nays" shall be taken and entered in the minutes upon the request of any board member. Before the vote is actually taken,

any resolution, motion, or proposed ordinance may be withdrawn from consideration by the sponsor thereof with the consent of the member of the Village Board seconding the said resolution, motion, or ordinance.

C. When, in the consideration of an ordinance, different times or amounts are proposed, the question shall be put on the largest sum or the longest time. A question to reconsider shall be in order when made by a member voting with the majority, but such motion to reconsider must be made before the expiration of the third regular meeting after the initial consideration of the question.

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

E. Any of the rules of the Village Board for meetings may be suspended by a two-thirds 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 Village Board shall decide all procedural disputes that may arise.

#### **SECTION 1-215: MEETINGS; MINUTES**

The Village Board shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed. 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. Minutes shall be written and available for inspection within ten working days of the meeting or prior to the next convened meeting, whichever occurs earlier, but an additional ten working days shall be allowed if the employee responsible for writing the minutes is absent due to a serious illness or an emergency. (Neb. Rev. Stat. §84-1413(1), (4), (5))

#### **SECTION 1-216: MEETINGS; VOTES**

Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the Village Board 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 utilization of an electronic voting device which allows the "yeas" and "nays" of each board member to be readily seen by the public. 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. Rev. Stat. §84-1413)

#### **SECTION 1-217: MEETINGS; CLOSED SESSIONS**

A. The Village Board may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of



an individual and if such individual has not requested a public meeting. Closed sessions may be held for, but shall not be limited to, such reasons as:

1. 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;
2. Discussion regarding deployment of security personnel or devices;
3. Investigative proceedings regarding allegations of criminal misconduct; or
4. Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting.

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

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

D. 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 (1) the protection of the public interest or (2) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

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

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

(Neb. Rev. Stat. §84-1410)

### **SECTION 1-218: MEETINGS; SPECIAL**

A. Special meetings may be called by the chairman or by three members of the Board of Trustees, the object of which shall be submitted to the board in writing. The call and object as well as the disposition thereof shall be entered upon the journal by the village clerk.

B. On filing the call for a special meeting, the clerk shall notify the board members of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a board member known to be out of the state or physically unable to be present. A majority of the members of the board shall constitute a quorum for the transaction of business but a smaller number may adjourn from day to day and compel the attendance of the absent members. Whether a quorum is present or not, all absent members shall be sent for and compelled to attend.

C. At the hour appointed for the 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 chairman, if present, or if absent, by the president of the board. In the absence of both the chairman and the president, the board members shall elect a president pro tempore. All ordinances passed at any special meeting shall comply with procedures set forth in Chapter 1, Article 3 (Ordinances, Resolutions and Motions) herein.

(Neb. Rev. Stat. §17-204, 17-205)

### **SECTION 1-219: MEETINGS; EMERGENCY**

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of Section 1-210 (Notice to News Media) shall be complied with in conducting emergency meetings. Complete minutes of any such emergency meeting 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. Rev. Stat. §84-1411)

## **Article 3 – Ordinances, Resolutions and Motions**

### **SECTION 1-301: GRANT OF POWER**

The Village Board shall have the responsibility of making all ordinances, bylaws, rules, regulations, and resolutions not inconsistent with state laws as may be necessary and proper for maintaining the peace, good government, and welfare of the Village and its trade, commerce, and security 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. Rev. Stat. §17-505)

### **SECTION 1-302: ORDINANCES; STYLE**

The style of all village ordinances shall be: "Be it ordained by the Chairman and Board of Trustees of the Village of McCool Junction, Nebraska." (Neb. Rev. Stat. §17-613)

### **SECTION 1-303: ORDINANCES; TITLE**

No ordinance shall contain a subject not clearly expressed in its title. (Neb. Rev. Stat. §17-614)

### **SECTION 1-304: ORDINANCES; INTRODUCTION**

Ordinances shall be introduced by members of the Village Board in either of the following ways:

A. With the recognition of the chairman, a board member may, in the presence and hearing of a majority of the Board of Trustees, read aloud the substance of his or her proposed ordinance and file a copy of the same with the village clerk for future consideration; or

B. With the recognition of the chairman, a board member may present his or her proposed ordinance to the clerk who, in the presence and hearing of a majority of the board, shall read aloud the substance of the same and shall file the same for future consideration.

### **SECTION 1-305: RESOLUTIONS AND MOTIONS; INTRODUCTION**

Resolutions and motions shall be introduced in one of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly read one time in the presence and hearing of a majority of the Village Board. The issues raised by said resolutions or motions shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the board. The vote on any resolution or motion shall be by roll call vote.

**SECTION 1-306: VOTES**

A. 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, “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. (Neb. Rev. Stat. §17-616)

B. All appointments of the officers by the Village Board shall be made viva voce. 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 the Village if it utilizes an electronic voting device which allows the “yeas” and “nays” of each member of the Village Board to be readily seen by the public. (Neb. Rev. Stat. §17-616)

**SECTION 1-307: PASSAGE; SUSPENSION OF RULES**

Ordinances, resolutions, or orders for the appropriation of money shall require for their adoption a concurrence of the majority of the Village Board. Ordinances of a general or permanent nature shall be read by the title on three different days unless three-fourths of the board votes to suspend this requirement, except that such requirement shall not be suspended for any ordinance for the annexation of territory. In case such requirement is suspended, the ordinance shall be read by title and then moved for final passage. Three-fourths of the board may require any ordinance to be read in full before final passage under either process. (Neb. Rev. Stat. §17-614)

**SECTION 1-308: ORDINANCES; PUBLICATION OR POSTING; CERTIFICATE**

A. Every ordinance of a general nature shall be published one time within 15 days after passage (1) in some newspaper published in the Village or, if no paper is published in the Village, then (2) by posting a written or printed copy thereof in each of three public places in the Village or (3) by publishing it in book or pamphlet form.

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

C. When any ordinance is printed in book or pamphlet form, purporting to be published by authority of the Board of Trustees, the same need not be otherwise published and such book or pamphlet shall be received as evidence of the passage and legal publication of such ordinance as of the date mentioned in such book or pamphlet, in all courts without further proof.  
(Neb. Rev. Stat. §17-613)

**SECTION 1-309: ORDINANCES; EFFECTIVE DATE**

A. No ordinance for the government of the Village which has been adopted without submission to the voters shall go into effect until 15 days after the passage of such ordinance except as provided in Neb. Rev. Stat. §16-405 and 17-613.

B. All ordinances adopted by the voters of the Village after submission to them by either initiative or referendum petition shall become immediately effective thereafter.

(Neb. Rev. Stat. §19-3701)

**SECTION 1-310: ORDINANCES; AMENDMENTS AND REVISIONS**

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended shall be repealed, except that an ordinance revising all the ordinances of the Village and modifications to zoning building districts may be adopted as otherwise provided by law. (Neb. Rev. Stat. §17-614)

**SECTION 1-311: EMERGENCY ORDINANCES**

In the case of riot, infectious or contagious diseases or other impending danger, failure of a public utility or other emergency requiring its immediate operation, such ordinance shall take effect upon the proclamation of the chairman and the posting thereof in at least three of the most public places in the Village. Such emergency notice shall recite the emergency, shall be passed by a three-fourths vote of the Village Board and shall be entered upon the village clerk's minutes. (Neb. Rev. Stat. §17-613, 19-3701)



## **Article 4 – Appointed Officials**

### **SECTION 1-401: APPOINTMENT**

The Village Board may appoint a village clerk, treasurer, attorney, overseer of the streets, police chief and other such officers as shall be required by ordinance or otherwise required by law. It shall also appoint a Board of Health as provided in Chapter 2, Article 2. All such appointees, except regular police officers, shall hold office for one year unless sooner removed by the chairman of the Board of Trustees by and with the advice and consent of the remainder of the board. If the Village has a water commissioner, he may at any time be removed from office by a two-thirds vote of the board for sufficient cause. (Neb. Rev. Stat. §17-208, 17-541)

### **SECTION 1-402: MERGER OF OFFICES**

The Village Board may by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except trustee, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time. However, trustees may perform, and upon board approval receive compensation for, seasonal or emergency work subject to Neb. Rev. Stat. §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. Rev. Stat. §17-209.02, 49-14,103.01 through 49-14,103.06)

### **SECTION 1-403: CLERK-TREASURER POSITION CREATED**

The appointive offices of village clerk and village treasurer are hereby combined and merged in accordance with the authority granted to the Village Board by Section 1-402. The offices so merged and combined shall always be construed to be separate, and the effect of the combination, or merger, shall be limited to a consolidation of official duties only. The salary of the officer holding the merged offices shall not be in excess of the maximum amount provided by law for the salary of the offices so combined.

### **SECTION 1-404: VILLAGE CLERK**

A. The village clerk shall attend the meetings of the Village Board and keep a correct journal of the proceedings of that body. Within 30 days after any board meet-

ing, the he or she shall prepare and publish the official proceedings in a legal newspaper of general circulation in the Village and which was duly designated as such by the board. Said publication shall set forth a statement of the proceedings thereof and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item.

B. The village clerk shall keep a record of all outstanding bonds against the Village and when any bonds are sold, purchased, paid, or canceled, said record shall show the fact. At the end of the fiscal year he or she shall make a report of the business of the Village transacted through the office for the year, describing particularly the bonds issued and sold during the year and the terms of the sale with each and every item and expense thereof. He or she shall file all official bonds after the same shall have been properly executed and approved and shall make the proper certificate of passage which shall be attached to original copies of all bond ordinances hereafter enacted.

C. The village clerk shall issue and sign all licenses, permits, and occupation tax receipts authorized by law and required by the village ordinances, collect all occupation taxes and license money except where some other village officer is specifically charged with that duty, and keep a register of all licenses granted in the Village and the purpose for which they were issued.

D. The village clerk 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 funds from which the same are payable. At the end of each month he or she shall make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon.

E. The village clerk shall deliver all warrants, ordinances and resolutions under his or her charge to the chairman for his or her signature. He or she shall also deliver to officers, employees, and committees all resolutions and communications which are directed to them. With the seal of the Village, he or she shall duly attest the chairman's signature on all ordinances, deeds and papers required to be attested to.

F. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for such publication shall not exceed the rates provided by state statutes. Said publication shall be charged against the general fund. He or she shall then keep in a book with a proper index copies of all notices required to be published or posted by order of the Village Board or under the ordinances of the Village. To each of the file copies of said notices shall be attached to the printer's affidavit of publication if the said notices are required to be published or the village clerk's certificate under seal where the same are required to be posted only.



G. The village 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 any of said claims is disallowed in part or in whole, the village clerk shall notify such claimant, his or her agent, or attorney by letter within five days after such disallowance. The clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

H. The village clerk shall keep all village records, including a record of all licenses issued in a blank book with a proper index. He or she shall include as part of the records all petitions under which the Village Board 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 shall be properly docketed. Included in the records shall be all standard codes, amendments thereto, and other documents incorporated by reference and arranged in a manner convenient for reference.

I. The village clerk shall permit no records, public papers, or other documents of the Village kept and preserved in the 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. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records during office hours. The village clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution of the Village Board.

J. 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 Neb. Rev. Stat. §84-1201 to 84-1220, 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.

(Neb. Rev. Stat. §17-605, 19-1102, 84-1201 through 84-1220, 84-712)

## **SECTION 1-405: VILLAGE TREASURER**

A. The village treasurer shall be the custodian of all moneys belonging to the Village, keeping the same separate and distinct from his or her own money. The treasurer shall keep a separate account of each fund or appropriation and the debits and credits belonging thereto. He or she shall issue duplicate receipts for all moneys received, giving to every person paying money into the village treasury a receipt therefor, specifying the date of payment and the account paid. One of the receipts shall be filed with his or her monthly report and the last copy of the said receipt shall be kept on file in the office. The village books and accounts shall always be open for inspection by any citizen of the Village whenever any village fiscal record, audit, warrant, voucher, invoice, purchase order, requisition, payroll check, receipt or other record of receipt, cash or expenditure involving public funds is involved. The treasurer shall cancel all bonds, coupons, warrants, and other evidence of debt against the Vil-

lage, whenever paid, 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 shall obtain from the county treasurer a monthly report as to the collection of delinquent taxes. The treasurer's daily cash book shall be footed and balanced daily, and he or she shall adopt such bookkeeping methods as the Village Board shall prescribe. He or she shall invest and collect all money owned by or owed to the Village as directed by the Village Board. (Neb. Rev. Stat. §17-606 through 17-609, 84-712)

B. The village treasurer shall, at the end of each and every month and such other times as the Village Board may deem necessary, render an account under oath showing the financial state of the Village at that date, the amount of money remaining in each fund and the amount paid therefrom, and the balance of money remaining in the treasury. He or she shall accompany the said account with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her. He or she shall also produce depository evidence that all village money is in a solvent and going bank in the name of the Village. If the village treasurer shall neglect or fail for the space of 20 days from the end of each and every month to render his or her accounts as aforesaid, the Village Board shall by resolution declare the office vacant and appoint another person to fill the vacancy. The village treasurer shall be present at each regular meeting of the Village Board, at which time he or she shall read and file a monthly report. (Neb. Rev. Stat. §17-606)

C. It shall be the duty of the treasurer to prepare and publish annually within 60 days following the close of its municipal fiscal year a statement of the receipts and expenditures by funds of the Village for the preceding fiscal year. Not more than the legal rate provided for in Neb. Rev. Stat. §33-141 shall be charged and paid for such publication. (Neb. Rev. Stat. §19-1101)

#### **SECTION 1-406: VILLAGE ATTORNEY**

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 an opinion upon any matters submitted to him or her either orally or in writing. The attorney shall draft or review for legal correctness ordinances, contracts, franchises and other instruments as may be required and shall perform such other duties as may be imposed by general law or ordinance. The Village Board shall have the right to pay the village attorney compensation for legal services performed by him or her 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. Rev. Stat. §17-610)

**SECTION 1-407: LAW ENFORCEMENT; CONTRACT WITH COUNTY SHERIFF**

The Village may annually appoint the York County Sheriff as police chief. The sheriff or his deputy shall, in addition to his other powers and duties, have all the powers and duties of the village police chief within and for the Village. When appointed as the chief law enforcement officer, the county sheriff shall direct the police work of the village and shall be responsible for the maintenance of law and order; file the necessary complaints in cases arising out of violations of village ordinances; and make all necessary reports required by the village ordinances or state laws. (Neb. Rev. Stat. §17-213)

**SECTION 1-408: POLICE DEPARTMENT; DUTIES**

The Police Department shall consist of the chief of police and such further number of regular police officers as may be duly ordered by resolution of the Board of Trustees. The chief of police shall, subject to the direction of the chairman, have control and management of all matters relating to the Police Department, its officers and members, and shall have the custody and control of all property and books belonging to the department. The Police Department shall execute and enforce all laws and also the orders of the chairman. It shall be the duty of the Department to protect the rights of persons and property. There shall be a proper police force at all fires. The Department shall take notice of all nuisances, impediments, obstructions, and defects in the streets, avenues, alleys, business places, and residences of the Village. The Department shall execute or cause to be executed the processes issued and shall cause all persons arrested to be brought before the proper court for trial as speedily as possible. The chief of police and all regular and special police officers shall become thoroughly conversant with the laws of the Village and shall see that the same are strictly enforced, making sworn complaints against any person or persons for violation of the same.

**SECTION 1-409: FIRE CHIEF**

The duties of the fire chief shall be as provided in Section 8-104 herein.

**SECTION 1-410: SPECIAL ENGINEER**

The Village Board may employ a special engineer to make any particular estimate, survey or other work. He shall, when directed by the Village Board, accurately make all plats, sections, profiles, and maps as may be necessary and make estimates of the costs of labor and material which may be done or furnished by contract with the Village. The special engineer shall make all surveys, estimates, and calculations necessary for the establishment of grades, bridges, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, curbing and gutters, and the improvement of streets and erection and repair of buildings. He shall perform such other duties as the Village Board may require and shall make a record of the minutes of his surveys and all other work done for the Village. All records of the special engineer shall be public records which shall belong to the Village and shall be

turned over to his successor. (Neb. Rev. Stat. §17-405, 17-568, 17-568.01, 17-919)

## **SECTION 1-411: UTILITIES SUPERINTENDENT**

A. As soon as a system of waterworks or mains or portion or extension of any system of waterworks or water supply has been established in the Village, the chairperson of the Board of Trustees shall nominate and, by and with the advice and consent of the board members, shall appoint any competent person who shall be known as the water commissioner and whose term of office shall be for one fiscal year or until his successor is appointed and qualified. Annually at the first regular meeting of the board in December, the water commissioner shall be appointed as provided in this section. He may at any time, for sufficient cause, be removed by a two-thirds 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 such commissioner.

B. The water commissioner shall, before entering upon the discharge of his 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 \$5,000.00, conditioned upon the faithful discharge of his duties. Such bond shall be signed by two or more good and sufficient sureties, to be approved by the Board of Trustees or executed by a corporate surety. The water commissioner, subject to the supervision of the board, 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. If the Village has no Board of Public Works and has other public utilities than its waterworks system, the Board of Trustees shall by ordinance designate the water commissioner as public works commissioner, also called utilities superintendent, with authority to manage not only the system of waterworks but also other public utilities, and all of the provisions of this section applying to the water commissioner shall apply to the public works commissioner.

C. The utilities superintendent, subject to the supervision of the Village Board, shall have the general management and control of the following village utilities and shall have such other duties as prescribed by the board:

### *Water Department*

The utilities superintendent shall have general supervision and control over the village water system and shall be primarily responsible for its economic operation and prudent management, included in the said water system shall be the water plant, the pump house, all machinery, and appliances used in connection with producing and distributing water to inhabitants of the Village. The superintendent shall have the general control and supervisory authority over all employees of the water system which the Village Board may from time to time hire to operate and maintain the said system. He shall make a detailed report to the board at least once every six months of the

condition of the said water system, of all mains, pipes, hydrants, reservoirs, and machinery and such improvements, repairs, and extensions thereof as he may think proper. The report shall show the amount of receipts and expenditures on account thereof for the preceding six months. No money shall be expended for improvements, repairs, or extensions of the said waterworks system except upon the recommendation of the superintendent.

### Sewer Department

The utilities superintendent shall have the immediate control and supervision over all the employees and property that make up the village sewer system. He shall, at least every six months, make a detailed report to the Village Board on the condition of the sewer system and shall direct their attention to such improvements, repairs, extensions, additions, and additional employees as he may believe are needed, along with an estimate of the cost thereof. He shall inspect and supervise all repairs made to the said system.

(Neb. Rev. Stat. §17-541, 17-543)

### **SECTION 1-412: UTILITIES SUPERINTENDENT; STREETS**

In addition to the above utilities, the utilities superintendent shall, subject to the orders and directives of the Village Board, have general charge, direction and control of all work on the streets, sidewalks, culverts and bridges of the Village. It shall be his responsibility to see that gutters and drains therein function properly and that the same are kept in good repair. At the request of the Village Board he shall make a detailed report on the condition of the streets, sidewalks, culverts, alleys and bridges of the Village and shall direct its attention to such improvements, repairs, extensions, additions and additional employees as he may believe are needed to maintain a satisfactory street system in the Village, along with an estimate of the cost thereof. He shall perform such other duties as the board may require. (Neb. Rev. Stat. §17-214)

### **SECTION 1-413: BUILDING INSPECTOR**

The duties of the building inspector shall be as provided in Section 9-101 herein.

### **SECTION 1-414: ELECTRICAL INSPECTOR**

The electrical inspector shall enforce all laws relating to the installation of electrical wiring and connections thereto. When acting in good faith and without malice in the scope of his official duties, he shall not himself be held personally liable for any damage that may accrue to persons or property as the result of any act required by him or by reason of any act or omission in the discharge of his duties. He shall, in the discharge of his official duties and upon proper identification, have authority to enter into any building, structure or premises at any reasonable hour. He shall perform such other duties and issue any permits that the Village Board may direct. The electrical inspector may be removed at any time for good and sufficient cause by the board.

**SECTION 1-415: PLUMBING INSPECTOR**

The plumbing inspector shall enforce all laws relating to the installation of plumbing and connections thereto. When acting in good faith and without malice in the scope of his official duties, he shall not himself be held personally liable for any damage that may accrue to persons or property as the result of any act required by him or by reason of any act or omission in the discharge of his duties. He shall, in the discharge of his official duties and upon proper identification, have authority to enter into any building, structure, or premises at any reasonable hour. He shall perform such other duties and issue any permits that the Village Board may direct. The plumbing inspector may be removed at any time for good and sufficient cause by the board.

## Article 5 – Fiscal Management

### SECTION 1-501: 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 Village Proprietary Function Act. (Neb. Rev. Stat. §17-701)

### SECTION 1-502: PUBLIC FUNDS DEFINED

“Public funds” shall mean all money, including non-tax money used in the operation and functions of governing bodies. For purposes of a village which has a lottery established under the Nebraska County and City 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. Rev. Stat. §13-503)

### SECTION 1-503: DEPOSIT OF FUNDS

A. The village treasurer shall deposit and at all times keep on deposit for safe-keeping 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. Such 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 such 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 such bank, capital stock financial institution or qualifying mutual financial institution from acting as a depository for such village funds.

B. The Village Board at its first meeting in each fiscal year shall designate one or more banks of approved and responsible standing in which the village treasurer shall keep at all times all money held by him or her; provided, if more than one bank in the Village meets the requirements for approved banks as herein defined, the said funds shall be deposited in each of them and the village treasurer shall not give a preference to any one or more of them in the money he or she shall deposit.

C. The Board of Trustees shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions (1) a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or, in lieu thereof, (2) security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The board shall approve such 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.

D. 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 to the extent that the deposits are insured by such corporation, and for deposits so insured, no other surety bond or other security shall be required.

E. Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions. Neb. Rev. Stat. §77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

(Neb. Rev. Stat. §17-607, 77-2362 through 77-2364)

## **SECTION 1-504: INVESTMENT OF FUNDS**

A. The Village Board may, by resolution, direct and authorize the city treasurer to invest surplus funds in the outstanding bonds or registered warrants of the Village and other approved bonds and obligations as provided by law. The interest on such bonds or warrants shall be credited to the fund out of which the said bonds or warrants were purchased. (Neb. Rev. Stat. §17-608, 17-609, 72-1259, 77-2341)

B. Notwithstanding any other provision of law, to the extent that the funds of the Village may be invested or deposited by the city treasurer in certificates of deposit or time interest-bearing deposits with banks, capital stock financial institutions, or qualifying mutual financial institutions, such authorization shall may include the investment or deposit of funds in certificates of deposit and time interest-bearing deposits in accordance with the following conditions as an alternative to the furnishing of securities or the providing of a deposit guaranty bond pursuant to the Public Funds Deposit Security Act:

1. The bank, capital stock financial institution, or qualifying mutual financial institution in this state through which the investment or deposit of funds is initially made arranges for the deposit of a portion or all of such funds in one or more certificates of deposit or time interest-bearing deposits with other banks, capital stock financial institutions, or qualifying mutual financial institutions located in the United States;
2. Each such certificate of deposit or time interest-bearing deposit is fully insured or guaranteed by the Federal Deposit Insurance Corporation;
3. The bank, capital stock financial institution, or qualifying mutual financial institution through which the investment or deposit of funds was initially made acts as a custodian for the Village with respect to any such certificate of deposit or time interest-bearing deposit issued for the account of the State; and
4. At the same time that the funds are deposited into and such certificates of deposit or time deposits are issued by other banks, capital stock financial institutions, or qualifying mutual financial institutions, the bank,



capital stock financial institution, or qualifying mutual financial institution through which the investment or deposit of funds in certificates of deposit or time interest-bearing deposits was initially made receives an amount of deposits from customers of other banks, capital stock financial institutions, or qualifying mutual financial institutions located in the United States which is equal to or greater than the amount of the investment or deposit of funds in certificates of deposit or time interest-bearing deposits initially made by the Village.

(Neb. Rev. Stat. §77-2365.02)

### **SECTION 1-505: CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS**

The village treasurer may, upon resolution of the Village Board authorizing the same, purchase certificates of deposit from and make time deposits in any bank or capital stock financial institution in the State of Nebraska to the extent that such certificates of deposit or time deposits are insured 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 manner provided in this section. The provisions of Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions. (Neb. Rev. Stat. §17-720)

### **SECTION 1-506: AUTHORITY TO CONTRACT WITH COLLECTION AGENCY**

A. The Village may contract to retain a collection agency, licensed pursuant to Neb. Rev. Stat. §45-601 to 45-622, within or without this state for the purpose of collecting public debts owed by any person to the Village. No debt owed pursuant to this subsection (A) may be assigned to a collection agency unless there has been an attempt to advise the debtor by first-class mail, postage prepaid, at his or her last known address of the existence of the debt and that the debt may be assigned to a collection agency for collection if the debt is not paid and at least 30 days have elapsed from the time the notice was sent. 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.

B. For purposes of this section, "debt" shall include all delinquent fees or payments except delinquent property taxes or 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 \$25.00 or 4½% 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. Rev. Stat. §45-623)

### **SECTION 1-507: CLAIMS**

All claims against the Village shall be presented to the Village Board in writing with a full account of the items and no claim or demand shall be audited or allowed unless presented as provided for in this section. No costs shall be recovered against the Vil-

lage in any action brought against it for an unliquidated claim which has not been presented to the Village Board to be audited nor upon claims allowed in part unless the recovery shall be for a greater sum than the amount allowed, with the interest due. No order or warrant shall be drawn in excess of 85% of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the village treasury for the appropriate fund against which it is to be drawn; provided, in the event there exist obligated funds from the federal and/or state government for the general purpose of such warrant, then such warrant may be drawn in excess of 85% but not more than 100% of the current levy for the purpose for which said warrant is drawn. (Neb. Rev. Stat. §17-714, 17-715)

### **SECTION 1-508: WARRANTS**

All warrants drawn upon the village treasury must be signed by the chairman of the Village Board and countersigned by the village clerk, stating the particular fund to which the warrant is chargeable, the person to whom it is payable and the purpose of the expenditure. No money shall be otherwise paid than upon warrants so drawn. Each warrant shall specify the amount included of such fund. (Neb. Rev. Stat. §17-711)

### **SECTION 1-509: EXPENDITURES**

No village official shall have the power to appropriate, issue or draw any order or warrant on the village treasury for money unless the same has been appropriated or ordered by ordinance. No expenditure for any improvement to be paid for out of the general fund of the Village shall exceed in any one year the amount provided for that improvement in the adopted budget statement. (Neb. Rev. Stat. §17-708)

### **SECTION 1-510: BOND ISSUES**

After meeting all the requirements of state law, the Village Board may issue bonds, fund bonds and retire bonds for such purposes as may be permitted by state law. The Village Board shall have the authority to levy special assessments for the payment of interest and principal on such bonds and may spread the payments up to the maximum number of years permitted by state law. (Neb. Rev. Stat. §10-209 through 10-411, 10-606 through 10-612, 12-1001, 17-529.01, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 23-3513, 39-836)

### **SECTION 1-511: SINKING FUNDS**

A. The Village Board, subject to the limitations set forth herein, shall have the power to levy a tax not to exceed that prescribed by state law upon the assessed value of all taxable property within the Village for a term not to exceed that prescribed by state law, in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the Village, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, or repair of the approved uses as authorized by state law. To initiate the said sinking fund, the Village Board shall declare its purpose by resolution to submit to the qualified

electors of the Village the proposition to provide the improvement at the next general village election. The resolution shall set forth the improvement, the estimated cost, the amount of the annual levy, the number of years required to provide the required revenue, the name of the sinking fund proposed, and the proposition as it will appear on the ballot.

B. Notice of the said proposition shall be published in its entirety three times on successive weeks before the day of the election in a legal newspaper of general circulation in the Village. The sinking fund may be established after the election if a majority or more of the legal votes were in favor of the establishment of the fund. The Village Board may then proceed to establish the said fund in conformity with the provisions of the proposition and applicable state law. The funds received by the village treasurer shall, as they accumulate, be immediately invested with the written approval of the board in the manner provided by state law. No sinking fund so established shall be used for any purpose or purposes contrary to the purpose as it appeared on the ballot unless the Village Board is authorized to do so by 60% of the qualified electors of the Village voting at a general election favoring such a change in the use of the sinking fund.

(Neb. Rev. Stat. §19-1301 through 19-1304, 77-2337, 77-2339)

#### **SECTION 1-512: COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE**

The Village shall collect the special assessments which it levies and perform all other necessary functions related thereto, including foreclosure. Notice that special assessments are due shall be mailed or otherwise delivered to the last known address of the person against whom such special assessments are assessed or to the lending institution or other party responsible for paying such special assessments. Failure to receive such notice shall not relieve the taxpayer from any liability to pay such special assessments and any interest or penalties accrued thereon. The Village shall 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 shall then file a release of assessment upon final payment of each assessment with the register of deeds. (Neb. Rev. Stat. §18-1216)

#### **SECTION 1-513: 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 such money shall be used for no other purpose unless to reimburse the Village for money expended for any such improvement. (Neb. Rev. Stat. §17-710)

#### **SECTION 1-514: CONTRACTS; APPROPRIATION**

No contracts shall hereafter be 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 be ordered by the

board or not, unless an appropriation shall have been previously made concerning such expense or the funds necessary for the payment of such expense have been duly transferred according to law. (Neb. Rev. Stat. §17-708, 17-709)

### **SECTION 1-515: CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS**

A. Except as provided in Neb. Rev. Stat. §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 costing over \$30,000.00 shall be made 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 such enlargement or improvement is assessed to the property, unless it is first approved by the Village Board.

B. Except as provided in Neb. Rev. Stat. §18-412.01, before the Village Board makes any contract in excess of \$30,000.00 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 such enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the village engineer and submitted to the Village Board. In advertising for bids as provided herein, the board may publish the amount of the estimate.

C. Advertisements for bids shall be required for any contract costing over \$30,000.00 entered into 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 such enlargement or improvement is assessed to the property or for the purchase of equipment used in the construction of such enlargement or general improvements.

D. The advertisement provided for in subsection (C) of this section shall be published at least seven days prior to the bid closing in a legal newspaper published in or of general circulation in the Village or by posting a written or printed copy thereof in each of three public places in the Village at least seven 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. Rev. Stat. §17-613 when adopted by a three-fourths vote of the Village Board and entered of record.

E. If, after advertising for bids as provided in this section, the Village Board receives fewer than two bids on a contract or if the bids received by the board contain a price which exceeds the estimated cost, the board may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost

commensurate with the estimate given.

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

G. Any village bidding procedure may be waived by the Village Board 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. Rev. Stat. §81-145 to 81-162 or when the contract is negotiated directly with a sheltered workshop pursuant to Neb. Rev. Stat. §48-1503.

H. 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. For purposes of this subsection, (1) "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; and (2) "purchasing" or "purchase" means the obtaining of personal property by sale, lease, or other contractual means

(Neb. Rev. Stat. §17-568.01, 17-568.02, 18-1756)

## **SECTION 1-516: ANNUAL AUDIT; FINANCIAL STATEMENTS**

A. The Village Board shall cause an audit of the village accounts to be made by a qualified accountant or shall prepare an unaudited statement of cash receipts and disbursements in lieu of an audit as expeditiously as possible following the close of the fiscal year. If an audit is authorized by the Village Board, it shall be made on a cash or accrual method at the discretion of the board and shall be completed within six months of the close of the fiscal year. In the event the Village elects not to have an audit performed, the village treasurer shall prepare an unaudited statement of cash receipts and disbursements in a form prescribed by the state auditor and shall submit no fewer than three copies of the unaudited report to the Village Board. The state auditor may require an audit of any village account based upon information contained in its unaudited statement and may specify the period within which such audit must be performed.

B. All public utilities shall be audited separately and the results of such audits shall appear separately in the annual audit report. The audit shall be a form that is in general conformity with accepted accounting principles and shall set forth the financial position for each fund of the Village as well as an opinion by the accountant with respect to the financial statements. Two copies of the annual report shall be filed with

the village clerk, becoming a part of the public records of his or her office, and will at all times thereafter be open for public inspection. One copy shall be filed with the state auditor of public accounts.

C. Any village may file an unaudited statement of cash receipts and disbursements annually in lieu of an annual audit. Such unaudited statement shall be filed with the auditor of public accounts in a form prescribed by him. The unaudited statement of cash receipts and disbursements 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. Every village board that is required herein to submit to an audit of its accounts shall provide and file with the village clerk, not later than August 1 of each year, financial statements showing its actual and budgeted figures for the most recently completed fiscal year.

(Neb. Rev. Stat. §19-2901 through 19-2909, 13-606)

### **SECTION 1-517: GENERAL FUND**

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

### **SECTION 1-518: EXPENDITURES PRIOR TO ADOPTION OF BUDGET**

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

B. The restriction on expenditures in subsection (A) of this section may be exceeded upon the express finding of the Village Board 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 Village Board 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. Rev. Stat. §13-509.01, 13-509.02)

### **SECTION 1-519: BUDGET STATEMENT; APPROPRIATIONS**

The Village Board shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill," in which are appropriated such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the Village. (Neb. Rev. Stat. §17-706)

**SECTION 1-520: BUDGET PROCEDURE; FORM AND INSTRUCTION MANUAL INCORPORATED**

For the purpose of proper budget preparation, the *City/Village Budget Form* and the *Budget Form Instruction Manual*, prepared by the state auditor of public accounts, are incorporated by reference.

**SECTION 1-521: PROPOSED BUDGET STATEMENT**

A. The Village Board shall annually 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. A proposed budget statement shall contain the following information, except as provided by state law:

1. For the immediately preceding fiscal year, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately stated as to each such source: The unencumbered cash balance at the beginning and end of the year; the amount received by taxation of personal and real property; and the amount of actual expenditures;
2. For the current fiscal year, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds and separately stated as to each such source: The actual unencumbered cash balance available at the beginning of the year; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. Such statement shall contain the cash reserve for each fiscal year and shall note whether or not such reserve is encumbered. Such cash reserve projections shall be based upon the actual experience of prior years. The cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;
3. For the immediately ensuing fiscal year, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed 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 Village Board 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 Village Proprietary Function Act, and a grand total of all funds maintained by the Village Board; and
6. A list of the proprietary functions which are not included in the budget statement. Such proprietary functions shall have a separate budget statement which is approved by the Village Board as provided in the Village 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. The Village shall correct any material errors in the budget statement detected by the auditor of public accounts or by other sources.

C. The estimated expenditures plus the required cash reserve for the ensuing fiscal year less all estimated and actual unencumbered balances at the beginning of the year 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 such 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. (Neb. Rev. Stat. §13-504, 13-505)

#### **SECTION 1-522: PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF AMOUNT RECEIVED FROM TAXATION**

A. The Village Board shall each year 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 five days prior to the date set for the hearing in a newspaper of general circulation within the Village. After the hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of such hearing.

B. 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 (1) the amount to be applied to the payment of principal or interest on bonds issued by the Village Board



and (2) 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 such 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 such changes.

D. 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. Rev. Stat. §13-506, 13-507)

### **SECTION 1-523: ADOPTED BUDGET; FILING, CERTIFICATION OF TAX**

A. The Village Board shall file with and certify to the levying board on or before September 20 of each year and file with the state auditor a copy of the adopted budget statement, together with the amount of tax to be levied, setting out separately the amount to be levied for the payment of principal or interest on bonds issued by the Village Board and the amount to be levied for all other purposes. Proof of publication shall be attached to the statements. The Village Board shall not certify any tax that exceeds the maximum levy prescribed by state law, except that in certifying the amount to be so levied, allowance may be made for delinquent taxes not exceeding 5% of the amount to be levied plus the actual percentage of delinquent taxes for the preceding tax year.

B. The Village Board, 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 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 that is still pending. Except for such allowances, the Village Board shall not certify an amount of tax more than 1% greater or lesser than the amount determined in the proposed budget statement.  
(Neb. Rev. Stat. §13-508)

### **SECTION 1-524: REVISION OF BUDGET**

A. Unless otherwise provided by law, the Village Board may propose to revise the previously adopted budget statement and shall conduct a public hearing on such proposal whenever during the current fiscal year it becomes apparent to the Village Board 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. Rev. Stat. §13-518 to 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. Rev. Stat. §13-518 to 13-522; or
3. The Village Board has been notified by the state auditor of a mathematical or accounting error or noncompliance with the Nebraska Budget Act.

B. Notice of the time and place of the hearing shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the Village Board's jurisdiction. Such published notice shall set forth the following:

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 such hearing any taxpayer may appear or file a written statement protesting any application for additional money. A written record shall be kept of all such hearings.

D. Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the Village Board, the board shall file with the county clerk and the state auditor a copy of the revised budget, as adopted, and shall certify the revised amount of tax to be levied. The Village Board may then issue warrants in payment for expenditures authorized by the adopted revised budget. Such 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 Neb. Rev. Stat. §13-506, the Village Board may, or within 30 days after notification of an error by the state auditor, the Village 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 hear-

ing shall be required for such a correction. After correction, the Village Board shall file a copy of the corrected budget with the county clerk and with the state auditor. The Village Board may then issue warrants in payment for expenditures authorized by the budget.

(Neb. Rev. Stat. §13-511)

### **SECTION 1-525: EMERGENCY; TRANSFER OF FUNDS; HEARING**

A. Whenever during the current fiscal year or biennial period it becomes apparent to the Village Board that due to unforeseen emergencies there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the board may by a majority vote, unless otherwise provided by state law, transfer money from other funds to such fund. No expenditure during any fiscal year or biennial period shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized in Neb. Rev. Stat. §13-511. Any officer or officers of any governing body who obligates funds contrary to the provisions of this section shall be guilty of a Class V misdemeanor.

B. If, as the result of unforeseen circumstances, the revenue of the current fiscal year shall be insufficient, the Village Board may propose to supplement the previously adopted budget statement and shall conduct a public hearing at which time any taxpayer may appear, or file a written statement protesting the application for additional money. A written record shall be kept of all such hearings. Notice of a place and time for the said hearing shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation in the Village. The published notice shall set forth the time and place of the proposed hearing, the amount of additional money required, the purpose of the required money, a statement setting forth the reasons why the adopted budget of expenditures cannot be reduced to meet the need for additional money, and a copy of the summary of the originally adopted budget previously published.

C. Upon the conclusion of the public hearing on the proposed supplemental budget and approval by the Village Board, the board shall file with the county clerk and the state auditor a copy of the supplemental budget and shall certify the amount of additional tax to be levied. The Village Board may then issue warrants in payment for expenditures authorized by the adopted supplemental budget. The said warrants shall be referred to as "registered warrants" and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

(Neb. Rev. Stat. §13-510, 13-511)

### **SECTION 1-526: PROPERTY TAX LEVY AND REQUEST; AUTHORITY TO SET**

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. Rev. Stat. §77-1601 unless the Board of Trustees passes by majority vote a resolution or ordinance setting the tax request at a different amount. Such resolution or ordinance shall only be passed after a special public hearing called for such pur-

pose is held and after notice is published in a newspaper of general circulation in the area of the Village at least five days prior to the hearing.

B. The hearing notice shall contain the following information:

1. The dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request;
2. The property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and
3. The proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request.

C. Any resolution setting a tax request under this section shall be certified and forwarded to the county clerk prior to October 14 of the year for which the tax request is to apply.

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

#### **SECTION 1-527: 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 subsection except as provided in subsections (C) and (D) of this section. The Village may levy a maximum levy of 45¢ per \$100.00 of taxable valuation of property subject to the levy plus an additional 5¢ per \$100.00 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. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. Rev. Stat. §51-201, museum pursuant to Neb. Rev. Stat. §51-501, visiting community nurse, home health nurse, or home health agency pursuant to Neb. Rev. Stat. §71-1637, or statue, memorial, or monument pursuant to Neb. Rev. Stat. §80-202. Property tax levies for judgments obtained against the Village which require or obligate the Village to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of the Village, for preexisting lease-purchase contracts approved prior to July 1, 1998, and for bonded indebtedness approved according to law and secured by a levy on property are not included in the levy limits established by this subsection. The limitations on tax levies provided in this subsection 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 subsection 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. Rev. Stat. §77-1606 unless approved under subsection (C) or (D) of this section.

B. 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's levy limit provided by subsection (A) of this section, except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, and for bonded indebtedness approved according to law and secured by a levy on property. The Village Board shall review and approve or disapprove the levy request of the political subdivisions subject to this subsection. The Village Board 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 Neb. Rev. Stat. §77-3444.

C. On or before August 1, all political subdivisions subject to municipal levy authority under this subsection shall submit a preliminary request for levy allocation to the Village Board. 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 such political subdivision from using procedures set forth in Neb. Rev. Stat. §77-3444 to exceed the final levy allocation as determined in this subsection.

D. The Village Board shall adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions and forward a copy of such resolution to the chairperson of the governing body of each of its political subdivisions.

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

F. The Village may exceed the limits provided in subsection (A) of this section 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.

G. The Village Board may call for the submission of the issue to the voters (1) by passing a resolution calling for exceeding the limits by a vote of at least two-thirds of the board members and delivering a copy of the resolution to the election commissioner of every county which contains all or part of the Village or (2) upon receipt of a petition by the county clerk requesting an election signed by at least 5% of the registered voters residing in the Village. The petition shall be in the form as provided in Neb. Rev. Stat. §32-628 through 32-631.

H. The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in subsection (A) of this section and the du-

ration of the excess levy authority. The excess levy authority shall not have a duration greater than five years. Any resolution or petition calling for a special election shall be filed with the county clerk 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. Rev. Stat. §32-802 shall be no later than 20 days prior to the election.

I. The county clerk 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.

J. Any excess levy authority approved under this subsection shall terminate pursuant to its terms, on a vote of the Village Board 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 subsection (H) of this section, whichever is earliest.

K. The Village Board may pass no more than one resolution calling for an election pursuant to this subsection during any one calendar year. There shall be no limit on the number of elections held pursuant to this subsection which are initiated by petition. The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the language specified in Neb. Rev. Stat. §77-3444.

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

M. In lieu of the election procedures in subsection (C) of this section, the Village may approve a levy in excess of the limits in subsection (A) of this section for a period of one year at a meeting of the residents of the Village, called after notice is published in a newspaper of general circulation in the Village at least 20 days prior to the meeting. At least 10% of the registered voters residing in the Village shall constitute a quorum for purposes of taking action to exceed the limits. 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 said 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 or final allocation, the limit or allocation shall not be exceeded and the Village shall have no power to call for an election under division (C) of this section.

N. 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.

O. The Village Board may call for the submission of the issue to the voters by passing a resolution calling for the rescission or modification by a vote of at least two-thirds of the members of the Village Board and delivering a copy of the resolution to the county clerk or upon request of a petition by the election commissioner requesting an election signed by at least 5% of the registered voters residing in the Village.

P. The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either such excess levy authority will be rescinded or such excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of such modification shall be stated. The modification shall not have a duration greater than five years. The county clerk 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. Rev. Stat. §32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act.  
(Neb. Rev. Stat. §77-3442 through 77-3444)

#### **SECTION 1-528: ALL-PURPOSE LEVY; ALLOCATION; ABANDONMENT; EXTRAORDINARY LEVY**

A. The Village Board has decided to certify to the county clerk for collection one all-purpose levy required to be raised by taxation for all municipal purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits in Neb. Rev. Stat. §77-3442, the all-purpose levy shall not exceed the annual levy specified in Neb. Rev. Stat. §19-1309 to be levied upon the taxable valuation of all taxable property in the Village.

B. The amount of the all-purpose levy shall be certified as a single amount for general fund purposes. The Village Board shall allocate the amount raised by the all-purpose levy to the several departments of the Village in its annual budget and appropriation ordinance or in other legal manner as the Village Board deems wisest and best.

C. The Village shall be bound by its election to follow the all-purpose levy method during the ensuing fiscal year but may abandon such method in succeeding fiscal years.

D. Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the Village may be made by the Village in addition to the all-purpose levy.  
(Neb. Rev. Stat. §19-1309 through 19-1312)

#### **SECTION 1-529: GENERAL PROPERTY TAX**

The Village Board shall cause to be certified to the county clerk the amount of tax to be levied upon the assessed value of all the taxable property of the Village for the requirements of the adopted budget for the ensuing year, including all special assessments and taxes. The maximum amount of tax which may be certified and assessed shall not require a tax levy in excess of the legal maximum as prescribed by state law. (Neb. Rev. Stat. §17-702)

**SECTION 1-530: MOTOR VEHICLE TAX**

The Village Board may levy a tax on all motor vehicles owned or used in the Village, which tax shall be paid to the county treasurer when the registration fees as provided in Neb. Rev. Stat. §60-329 to 60-339 are paid. Such taxes shall be credited by the county treasurer to the road fund of the Village. Such funds shall be used by such city for constructing, resurfacing, maintaining, or improving streets, roads, alleys, public ways, or parts thereof for the amortization of bonded indebtedness when created for such purposes. (Neb. Rev. Stat. §18-1214) (Ord. No. 207, 10/3/88)

**SECTION 1-531: INADEQUATE VALUATION**

If the valuation of the village has been reduced so that the maximum levy permitted by this article is inadequate to produce the necessary revenue, said maximum levy may be exceeded upon presentation to the Village Board of petitions signed by a majority of the registered voters of the village requesting such action and specifying the extent to, and the period of time, not to exceed five years, in which such maximum may be exceeded. No signature may be withdrawn after the petitions have been filed with the board. The council shall cause such petitions, accompanied by the certificate of the county clerk that he or she has examined the petitions and that they have been signed by a majority of the registered voters of the village, to be filed with the County Board. After such filing, the board may exceed the maximum mill levy to the extent and for the period of time specified in the petitions. (Neb. Rev. Stat. §19-1309)



## **Article 6 – Elections**

### **SECTION 1-601: VILLAGE BOARD OF TRUSTEES**

A. Board members shall be elected from the Village at large unless the residents have voted to elect their board members by wards. Board members shall be residents and qualified electors. Except as provided in Neb. Rev. Stat. §17-202, the term of each trustee shall be four years or until his or her successor is elected and qualified.

B. If the election of board members takes place by wards, each nominee shall be a resident and qualified elector of the ward for which he or she is a candidate and only residents of that ward may sign the candidate's nomination petitions.  
(Neb. Rev. Stat. §17-202, 17-203, 32-532, 32-554)

### **SECTION 1-602: ELECTION OF OFFICERS; CERTIFICATION**

All village elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide general election. No later than January 5 of each even-numbered year, the Village Board shall certify to the secretary of state 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. (Neb. Rev. Stat. §32-404(2), 32-556)

### **SECTION 1-603: ELECTIONS 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.

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 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. Rev. Stat. §32-404(1), 32-556)

### **SECTION 1-604: JOINT, GENERAL; NOTICE**

The notice of election required to be published by the county clerk no less than 40 days prior to an election shall serve as the notice requirement for all village elections which are held in conjunction any other election. (Neb. Rev. Stat. §32-802)

### **SECTION 1-605: SPECIAL ELECTION**

A. 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 county clerk at least 50 days prior to the election or as prescribed by special legislation. A special election may be held by mail as provided in Neb. Rev. Stat. §32-952 through 32-959. No special election to be conducted by the county clerk shall be held within 30 days prior to or 60 days after the statewide primary election and no special election to be conducted by the county clerk shall be held within 30 days prior to or 60 days after the statewide general election.

B. 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 county clerk by March 1 for the primary election and by September 1 for the general election.

C. After the 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 such issue other than the notice required to be given of the statewide election issues. The county clerk shall prepare the ballots and issue absentee ballots 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 county clerk. The ballots, including absentee 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 county clerk shall certify the election results to the Village Board. The canvass by the Canvassing Board shall have the same force and effect as if made by the Village Board.

D. 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. Rev. Stat. §32-559, 32-405)

## **SECTION 1-606: PETITION CANDIDATES**

A. Petitions for nomination of candidates for Village Board shall conform to the requirements of Neb. Rev. Stat. §32-628. Petitions shall state the office to be filled and the name and address of the candidate. A sample copy of the petition shall be filed with the filing officer prior to circulation. Petitions for partisan office shall also indicate the party affiliation of the candidate. Petitions shall be signed by registered voters residing in the Village and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. Rev. Stat. §32-607. Petition signers and petition circulators shall conform to the requirements of Neb. Rev. Stat. §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. Such petitions shall be filed by September 1 in the year of the general election.

B. The number of signatures of registered voters needed to place the name of a candidate upon the ballot for a village office for the general election shall be as follows:

1. Nonpartisan ballot: 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, not to exceed 2,000.
2. Partisan ballot: at least 20% of the total vote for governor or president of the United States at the immediately preceding general election within the Village, not to exceed 2,000.

C. The filing officer shall verify the signatures according to Neb. Rev. Stat. §32-631. Within three days after the signatures on a petition for nomination have been verified pursuant to such section and the filing officer has determined that pursuant to Neb. Rev. Stat. §32-618 a sufficient number of registered voters signed the petitions, the filing officer shall notify the candidate so nominated by registered or certified mail and the candidate shall, within five days after the date of receiving such notification, file with such officer his or her acceptance of the nomination or his or her name will not be printed on the ballot.

D. A candidate placed on the ballot by petition shall be termed a candidate by petition. The words "By Petition" shall be printed upon the ballot after the name of each candidate by petition.  
(Neb. Rev. Stat. §32-617)

### **SECTION 1-607: CAUCUS CANDIDATES**

The Village Board may by ordinance call a caucus for the purpose of nominating candidates for offices to be filled in the village election. Such caucus shall be held at least ten days prior to the filing deadline for such election. Notice of such caucus must be published at least once in each of two consecutive weeks prior to said caucus in a newspaper of general circulation in the Village. The village clerk shall notify the person so nominated of his or her nomination and such notification shall take place not less than five days after the said caucus. A candidate so nominated shall not have his or her name placed upon the ballot unless, not more than ten days after the holding of such caucus, he or she shall have filed with the village clerk a written statement accepting the nomination of the caucus and shall have paid the filing fee, if any, for the office for which he or she was nominated. (Neb. Rev. Stat. §17-601.01 through 7-601.03)

### **SECTION 1-608: FILING FEE**

A. Except as provided in subsection (C) or (D) of this section, a filing fee shall

be paid to the village treasurer by or on behalf of each candidate 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 receipt showing payment of such filing fee is presented to the filing officer.

B. 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 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.

C. No filing fee shall be required on 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 \$500.00 per year.

D. No filing fee shall be required of any candidate completing an affidavit requesting to file for elective office in forma pauperis. "Pauper" shall mean 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. "Available resources" shall include every type of property or interest in property that an individual owns and may convert into cash except real property used as a home, household goods of a moderate value used in the home and assets up to a maximum value of \$3,000.00 which are used by a recipient in a planned effort directed towards self-support.

E. 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 Village Board prior to the date of the election. Upon approval of the claim by the board, the filing fee shall be refunded. (Neb. Rev. Stat. §32-608)

## **SECTION 1-609: BALLOTS**

The county clerk shall provide printed ballots for every general or special village election and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the Village. (Neb. Rev. Stat. §32-805, 32-1202)

## **SECTION 1-610: EXIT POLLS**

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

**SECTION 1-611: CERTIFICATE OF NOMINATION OR ELECTION**

A. The county clerk shall, within 40 days after the election, prepare, sign and deliver a certificate of nomination or a certificate of election to each person whom the Canvassing Board has declared to have received the highest vote for each village office. No person shall be issued a certificate of nomination as a candidate of a political party unless such person has received a number of votes at least equal to 5% of the total ballots cast at the primary election by registered voters affiliated with that political party in the district which the office for which he or she is a candidate serves.

B. A certificate of election prepared by the county clerk shall be in the form as nearly as possible to that prescribed in Neb. Rev. Stat. §32-1033 and shall be signed by the chairman of the Board of Trustees under the seal of the Village and countersigned by the village clerk.

(Neb. Rev. Stat. §32-558, 32-1033)

**SECTION 1-612: RECALL PROCEDURE**

A. Any or all of the elected officials of the Village may be removed from office by recall pursuant to Neb. Rev. Stat. §32-1301 to 32-1309.

B. The petition papers shall be procured from the village clerk. Each petition paper shall conform to the requirements of state law. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the village clerk by at least one registered voter. Such voter or voters shall be deemed to be the principal circulator(s) of the recall petition. The affidavit shall state the name and office of the official sought to be removed and shall request that the village clerk issue initial petition papers to the principal circulator for circulation. The village clerk shall notify the principal circulator that the necessary signatures must be gathered within 30 days from the date of issuing petitions.

C. The village 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 to whom the papers were issued, the date of issuance, and the number of papers issued. The village clerk shall certify on the papers the name of the principal circulator 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 who checks out petitions from the village clerk may distribute such petitions to registered voters residing in the Village who may act as circulators of such petitions.

D. Petition signers shall conform to the requirements of the Election Act. 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 on the date of the issuance of the initial petition papers.

E. A petition demanding that the question of removing a member of the Village Board be submitted to the registered voters shall be signed by registered voters equal in number to at least 35% of the total vote cast for the person receiving the most votes for that office in the last general election.

F. The principal circulator shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the village clerk within 30 days after the village clerk issues the initial petition papers to the principal circulator. Within 15 days after the filing of the petition, the village 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 signature may be removed unless the village clerk receives an affidavit signed by the person requesting his or her signature be removed before the petitions are filed with the village clerk for signature verification. If the petition is found to be sufficient, the village 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 village clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose.

G. If the recall petition is found to be sufficient, the village clerk shall notify the official whose removal is sought and the Village Board that sufficient signatures have been gathered. If the official does not resign within five days after receiving the notice, the Village Board shall order an election to be held not less than 30 nor more than 45 days after the expiration of the five-day period, except that if any other election is to be held in the Village within 90 days of the expiration of the five-day period, the Village Board shall provide for the holding of the removal election on the same day. After the board sets the date for the recall election, the recall election shall be held regardless of whether the official whose removal is sought resigns before the recall election is held.

H. If a majority of the votes cast at a recall election are against the removal of the official named on the ballot or if the election results in a tie, the official shall continue in office for the remainder of his or her term but may be subject to further recall attempts as provided in Subsection (J) of this section. If a majority of the votes cast at a recall election are for the removal of the official 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 official is deemed removed, the removal shall result in a vacancy in the office which shall be filled as otherwise provided in this code and state law. If the election results show a margin of votes equal to 1% or less between the removal or retention of the official in question, the county clerk shall order a recount of the votes cast unless the official named on the ballot files a written statement with the village clerk that he or she does not want a recount. If there are vacancies in the offices of a majority or more of the members of the Village Board 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 county clerk.

I. No official 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 another member of the Village Board during the remainder of his or her term of office.

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

K. If an official is recalled or a vacancy needs to be filled as the result of a recall petition, the Village shall pay the costs of the recall procedure and any special election held as a result of a recall election. If a recall election is canceled pursuant to Neb. Rev. Stat. §32-1306, the Village shall be responsible for costs incurred related to the canceled election. The costs shall include all chargeable costs as provided in Neb. Rev. Stat. §32-1202 associated with preparing for and conducting a recall or special election.

(Neb. Rev. Stat. §32-1301 through 32-1309)





## **Article 7 – Penal Provisions**

### **SECTION 1-701: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.