

TITLE III: ADMINISTRATION

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CHAPTER 30: ELECTED OFFICIALS; ORDINANCES

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GENERAL PROVISIONS

§ 30.01 ELECTED OFFICIALS; VACANCY.

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

(B) Except as otherwise provided in divisions (D) or (E) of this section, vacancies in village elected offices shall be filled by the Board of Trustees for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the Board at a regular or special meeting and shall appear as a part of the minutes of the meeting. The Board shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the village or by posting in 3 public places in the village the office vacated and the length of the unexpired term.

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(C) The Chairperson of the Board shall, within 4 weeks after the meeting at which the notice of vacancy has been presented or upon the death of the incumbent, call a special meeting of the Board or place the issue of filling the vacancy on the agenda at the next regular meeting at which time the Chairperson shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term. The Board shall vote upon the nominee, and if a majority votes in favor of the nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the Chairperson shall, at the next regular or special meeting, submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive a majority of the votes, the Chairperson shall continue at the meeting to submit the names of qualified registered voters in nomination, and the Board shall continue to vote upon the nominations, until the vacancy is filled. All Trustees present shall cast a ballot for or against the nominee. Any member of the Board who has been appointed to fill a vacancy on the Board shall have the same rights, including voting, as if the person were elected.

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

(E) If vacancies exist in the offices of a majority of the members of the Board of Trustees, the Secretary of State shall conduct a special election to fill the vacancies, except that the Board of Trustees of a village situated in more than 1 county shall have power to fill by appointment any vacancy that may occur in their number.

(F) No official who is removed at a recall election or resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal or the removal of any other member of the same Board of Trustees during the remainder of his or her term of office.
(Neb. RS 32-560 through 32-572, 32-1308)
(Ord. 1999-7.13, passed 7-12-1999)

§ 30.02 VACANCY DUE TO UNEXCUSED ABSENCES.

(A) In addition to the events listed in Neb. RS 32-560 and any other reasons for a vacancy provided by law, after notice and a hearing, a vacancy on the Board of Trustees shall exist if a member is absent from more than 5 consecutive regular meetings of the Board unless the absences are excused by a majority vote of the remaining members.
(Neb. RS 19-3101)

(B) The Board of Trustees shall take a vote on whether to excuse a member's absence from a meeting upon either a written request from the member submitted to the Village Clerk/Treasurer or a motion of any other Board member.

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

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

(Ord. 2003-10.3, passed 10-20-2003)

BOARD OF TRUSTEES

§ 30.15 ORGANIZATION.

The Board of Trustees shall consist of 5 members. Any person who is a citizen of the United States, a resident of the municipality at the time of his or her election, and a registered voter may be eligible to be elected to the Board of Trustees. Every Trustee so elected and so qualified shall hold his or her office for a term of 4 years, provided that a Trustee's term shall expire and the office will become vacant upon a change of residence from the municipality. The members of the Board of Trustees shall, before entering upon the duties of their office, take an oath to support the Constitution of the United States, and the Constitution of the State of Nebraska, and faithfully and impartially discharge the duties of their office. All Trustees elected to office shall qualify and meet at the first regular meeting of the Board in December, organize, and appoint the municipal officers required by law.

(Neb. RS 17-202 through 17-204, 32-532) (1994 Code, § 1-102)

§ 30.16 POWERS AND DUTIES.

(A) The Board of Trustees shall have the power to pass ordinances to prevent and remove nuisances; to restrain and prohibit gambling; to provide for licensing and regulating theatrical and other amusements within the village; to prevent the introduction and spread of contagious diseases; to establish and regulate markets; to erect and repair bridges; to erect, repair, and regulate wharves and the rates of wharfage; to regulate the landing of watercraft; to provide for the inspection of building materials to be used or offered for sale in the village; to govern the planting and protection of shade trees in the streets and the building of structures projecting upon or over and adjoining, and all excavations through and under, the sidewalks of the village; and in addition to the special powers herein conferred and granted, to maintain the peace, good government, and welfare of the village and its trade, commerce, and manufactories; and to enforce all ordinances by inflicting penalties upon inhabitants or other persons for violation thereof not exceeding \$500 for any 1 offense, recoverable with costs.

(Neb. RS 17-207)

(B) The village has the power and authority by ordinance to define, regulate, suppress, and prevent nuisances, and to declare what constitutes a nuisance, and to abate and remove the same. The village may exercise the power and authority within its zoning jurisdiction.

(Neb. RS 18-1720) (Ord. 2000-7.9, passed 7-10-2000)

§ 30.17 VILLAGE BOARD CHAIRPERSON; SELECTION AND DUTIES.

The Village Board Chairperson shall be selected at the first regular meeting of the Board of Trustees in December by the Board of Trustees from its own membership. The Chairperson shall preside at all meetings of the Board of Trustees. In the absence of the Chairperson, the Board of Trustees shall elect 1 of its own body to occupy the position temporarily who shall hold the title of

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Chairperson pro tempore of the Board of Trustees. The Chairperson and the Chairperson pro tempore shall have the same powers and privileges as other members of the Board of Trustees. The Chairperson shall cause the ordinances of the Board of Trustees to be printed and published for the information of the inhabitants. The Chairperson shall also perform all duties of his or her office in accordance with the laws of the State of Nebraska, and the ordinances of the municipality. The qualifications for the Chairperson shall be the same general qualifications that apply to the members of the Board of Trustees.
(1994 Code, § 1-101)

Statutory reference:

General Provisions, See Neb. RS 17-202 through 17-210

ORDINANCES, RESOLUTIONS, AND MOTIONS

§ 30.30 GRANT OF POWER.

The Board of Trustees may make all ordinances, bylaws, rules, regulations, and resolutions, not inconsistent with the laws of the State of Nebraska, as may be expedient for maintaining the peace, good government, and welfare of the municipality and its trade, commerce, and manufactories.
(Neb. RS 17-505) (Ord. 1997-8.4, passed 8-11-1997)

§ 30.31 PROCEDURE FOR RESOLUTIONS AND MOTIONS.

Resolutions and motions shall be introduced in 1 of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly read 1 time in the presence and hearing of a majority of the members elected to the Board of Trustees. The issue raised by the resolution or motion shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the Board of Trustees. A majority vote shall be required to pass any resolution or motion. The vote on any resolution or motion shall be by roll call vote.
(1994 Code, § 1-603)

§ 30.32 INTRODUCTION OF ORDINANCES.

Ordinances shall be introduced by members of the Board of Trustees in 1 of the following ways:

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

(B) With the recognition of the Chairperson, a member may present the proposed ordinance to the Clerk/Treasurer who, in the presence and hearing of a majority of the members elected to the Board of Trustees, shall read aloud the substance of the ordinance and file it for future consideration.
(Ord. 1997-8.5, passed 8-11-1997)

Elected Officials; Ordinances

§ 30.33 **ORDINANCES; STYLE, TITLE.**

(A) The style of all municipal ordinances shall be: “Be it ordained by the Chairman and Board of Trustees of the Village of Bennet, Nebraska.”
(1994 Code, § 1-604)

(B) No ordinance shall contain a subject which is not clearly expressed in the title.
(Neb. RS 17-613, 17-614) (1994 Code, § 1-605)

Statutory references:

Additional Requirements, See Neb. RS 17-614

Adoption of Standard Codes, See Neb. RS 18-132

§ 30.34 **READING AND PASSAGE OF ORDINANCES, RESOLUTIONS, ORDERS, BYLAWS.**

(A) Ordinances of a general or permanent nature shall be read by title on 3 different days unless 3/4 of the Board of Trustees vote to suspend this requirement, except that the requirement shall not be suspended for any ordinance for the annexation of territory. In case the requirement is suspended, the ordinance shall be read by title and then moved for final passage. A reading of any ordinance in full may be required by 3/4 of the Board of Trustees before enactment under either procedure set out in this section. All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the Board of Trustees.
(Neb. RS 17-614)

(B) On the passage or adoption of every bylaw or ordinance, and every resolution or order to enter into a contract by the Board of Trustees, the yeas and nays shall be called and recorded. To pass or adopt any bylaw, ordinance, or any resolution or order a concurrence of a majority of the whole number of members elected to the Board of Trustees shall be required. All appointments of the officers by the Board of Trustees shall be made *viva voce*, and the concurrence of a like majority shall be required, and the names of those, and for whom they voted, on the vote resulting in an appointment, shall be recorded. The requirements of a roll call or *viva voce* vote shall be satisfied by a municipality which utilizes an electronic voting device which allows the yeas and nays of each member of the Board of Trustees to be readily seen by the public.
(Neb. RS 17-616)
(Ord. 1997-8.6, passed 8-11-1997)

§ 30.35 **PUBLICATION OR POSTING.**

All ordinances of a general nature shall, before they take effect, be published 1 time, within 15 days after they are passed:

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

(B) In book or pamphlet form.
(Neb. RS 17-613) (Ord. 1997-8.7, passed 8-11-1997)

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Statutory references:

Chairperson of Board of Trustees, Duties, See Neb. RS 17-210

Emergency Ordinance, See Neb. RS 17-613

Publication or Posting Required, See Neb. RS 18-131

§ 30.36 CERTIFICATE OF PUBLICATION OR POSTING.

The passage, approval, and publication or posting of an ordinance shall be sufficiently proved by a certificate under the seal of the municipality from the Village Clerk/Treasurer showing that the ordinance was passed and approved, and when and in what paper the ordinance was published, or when and by whom and where the ordinance was posted.

(Neb. RS 17-613) (1994 Code, § 1-608)

Statutory reference:

Passage; Rules and Regulations, See Neb. RS 17-615

§ 30.37 EFFECTIVE DATE; EMERGENCY ORDINANCES.

(A) Except as provided in § 30.35 and division (B) of this section, an ordinance for the government of the municipality which has been adopted by the Board of Trustees without submission to the voters of the municipality shall not go into effect until 15 days after the passage of the ordinance.

(Neb. RS 19-3701)

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

(Neb. RS 17-613) (1994 Code, § 1-609)

§ 30.38 AMENDMENTS AND REVISIONS.

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

(Neb. RS 17-614) (Ord. 1997-8.8, passed 8-11-1997)

CHAPTER 31: APPOINTED VILLAGE OFFICIALS

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31.05	Village Clerk/Treasurer Position Created
31.06	Village Attorney
31.07	Village Utilities Superintendent
31.08	Regular Engineer
31.09	Special Engineer
31.10	Zoning Administrator

§ 31.01 APPOINTMENT; REMOVAL.

(A) The Board of Trustees may appoint a Village Clerk/Treasurer, Attorney, and Utilities Superintendent.

(B) (1) It shall also appoint a Board of Health consisting of 3 members: the Chairperson of the Village Board, who shall be Chairperson, and 2 other members.

(2) One member shall be a physician or health care provider, if 1 can be found who is willing to serve.

(3) The physician or health care provider, if appointed, shall be the Board's medical advisor.

(C) The Board of Trustees shall also appoint the additional officials and employees as they may determine the municipality needs.

(D) All the appointees shall hold office for 1 year, unless sooner removed by the Chairperson of the Board of Trustees by and with the advice and consent of the remainder of the Board of Trustees.

(Neb. RS 17-208, 17-541) (Ord. 1997-8.2, passed 8-11-1997)

§ 31.02 MERGER OF OFFICES.

The Board of Trustees may, at its discretion, by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any offices or employments, except Village Chairperson and Trustee, with any other elective or appointive office or employment so that 1 or more of the offices or employments or any combination of duties of any offices or employments may be held by the same officer or employee at the same time. 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 or combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the

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salary or compensation of the office, offices, employment, or employments so merged and combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers.

(Neb. RS 17-108.02) (1994 Code, § 1-202)

§ 31.03 VILLAGE CLERK.

(A) The Village Clerk shall attend the meetings of the Board of Trustees and keep a correct journal of the proceedings of that body. He or she shall keep a record of all outstanding bonds against the municipality and when any bonds are sold, purchased, paid, or canceled, the record shall show the fact. He or she shall make, at the end of the fiscal year, a report of the business of the municipality transacted through his or her office for the year. That record shall describe 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. He or she shall make the proper certificate of passage which shall be attached to original copies of all bond ordinances hereafter enacted by the Board of Trustees.

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

(C) The Village Clerk shall permit no records, public papers, or other documents of the municipality kept and preserved in his or her office to be taken therefrom, except by the officers of the municipality as may be entitled to the use of the same, but only upon their leaving a receipt therefor. He or she shall keep all the records of his or her office, including a record of all licenses issued by him or her in a blank book with a proper index. He or she shall include as part of his or her records all petitions under which the Board of Trustees shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions and ordinances relating to the same. He or she shall endorse the date and hour of filing upon every paper or document so filed in his or her office. All the filings made by him or her shall be properly docketed. Included in his or her records shall be all standard codes, amendments thereto, and other documents incorporated by reference and arranged in triplicate in a manner convenient for reference. He or she shall keep an accurate and complete account of the appropriation of the several funds and draw, sign, and attest all warrants ordered for the payment of money on the particular fund from which the same is payable. At the end of each month, he or she shall then make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records at all reasonable times.

(D) (1) The Village Clerk shall deliver all warrants, ordinances, and resolutions under his or her charge to the Chairperson for his or her signature. He or she shall also deliver to officers, employees, and committees all resolutions and communications which are directed at the officers, employees, or committees. With the seal of the municipality, he or she shall duly attest the Chairperson's signature to all ordinances, deeds, and papers required to be attested to when ordered to do so by the Board of Trustees.

(2) Within 30 days after any meeting of the Board of Trustees, the Village Clerk shall prepare and publish the official proceedings of the Board of Trustees in a legal newspaper of general circulation in the municipality and which was duly designated as such by the Board of Trustees. The 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,

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except that the aggregate amount of all payroll claims may be included as 1 item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to the job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for the publication shall not exceed the rates provided by the statutes of the State of Nebraska, Neb. RS 19-1102 and 23-122.

(Neb. RS 19-1102)

(3) The publication shall be charged against the general fund.
(Neb. RS 19-1103)

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

(E) 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 municipality, and in the event that the claim is disallowed in part or in whole, the Village Clerk shall notify the claimant, his or her agent, or attorney by letter within 5 days after the disallowance, and the Village Clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

(F) 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 Board of Trustees. He or she shall destroy municipal records under the direction of the State Records Board pursuant to Neb. RS 84-1201 through 84-1227, provided that the Board of Trustees shall not have the authority to destroy the minutes of the Village Clerk, the permanent ordinances, and resolution books, or any other records classified as permanent by the State Records Board.
(1994 Code, § 1-204)

Statutory References:

Duties Generally, See Neb. RS 17-605

Examination of Public Records Free of Charge, See Neb. RS 84-712

Penalty for Failure to Perform Duties, See Neb. RS 19-1104

Publication of Official Proceedings; Fiscal Year Report, See Neb. RS 19-1101, et seq.

Publication Rates, See Neb. RS 23-122 and Neb. RS 33-141 through 33-143

Records Management Act, See Neb. RS 84-1201 through 84-1227

§ 31.04 VILLAGE TREASURER.

(A) The Village Treasurer shall be the custodian of all moneys belonging to the municipality. He or she shall keep all money belonging to the municipality separate and distinct from his or her own money. He shall keep a separate account of each fund or appropriation, and the debits, and credits belonging thereto. He or she shall issue duplicate 2 receipts for all moneys received by him or her for the municipality. He or she shall give 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 receipt shall be kept on file in his or her office. His or her books, and accounts shall always be open for inspection by any citizen of the municipality whenever any municipal 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. He or she shall cancel all bonds, coupons, warrants, and other evidences of debt against the municipality, whenever paid by him or her, by writing, or

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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 the bookkeeping methods as the Board of Trustees shall prescribe. He or she shall invest and collect all money owned by, or owed to the municipality as directed by the Board of Trustees. (Neb. RS 17-606 through 17-609, 84-712) (1994 Code, § 1-205)

(B) The Village Treasurer shall at the end of each, and every month, and the other times as the Board of Trustees may deem necessary, render an account to the Board of Trustees under oath showing the financial state of the municipality 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 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 municipal money is in a solvent, and going bank in the name of the municipality. 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 Board of Trustees shall, by resolution, declare the office vacant, and appoint some person to fill the vacancy. The Village Treasurer shall be present at each regular meeting of the Board of Trustees at which time he or she shall read, and file his or her monthly report.

(Neb. RS 17-606) (1994 Code, § 1-206)

(C) The Village Treasurer shall publish in a legal newspaper having general circulation within the municipality, within 60 days following the close of the fiscal year, a report of the activities of his or her office which the report shall show in detail. The report shall include all receipts, disbursements, warrants outstanding, and the debit or credit balance of the municipality.

(Neb. RS 19-1101) (1994 Code, § 1-207)

§ 31.05 VILLAGE 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 Board of Trustees by § 31.02.

(1994 Code, § 1-203)

§ 31.06 VILLAGE ATTORNEY.

The Village Attorney is the municipality's legal advisor, and as such he or she shall commence, prosecute, and defend all suits on behalf of the municipality. When requested by the Board of Trustees, he or she shall attend meetings of the Board of Trustees and shall advise any municipal official in all matters of law in which the interests of the municipality may be involved. He or she shall draft the ordinances, bonds, contracts, and other writings as may be required in the administration of the affairs of the municipality. He or she shall examine all bonds, contracts, and documents on which the Board of Trustees will be required to act and attach thereto a brief statement in writing to all the instruments and documents as to whether or not the document is in legal and proper form. He or she shall prepare complaints, attend, and prosecute violations of the municipal ordinances when directed to do so by the Board of Trustees. Without direction, he or she shall appear and prosecute all cases for violation of the municipal ordinances that have been appealed to and are pending in any higher court. He or she shall also examine, when requested to do so by the Board of Trustees, the ordinance records and advise and assist the Village Clerk/Treasurer as much as may be necessary to the end that each procedural step will be taken in the passage of each ordinance to ensure that they will be valid, and subsisting local laws in so far as their passage and approval are concerned. The Board of Trustees shall have the right to compensate the Village

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Attorney for legal services on the terms as the Board of Trustees and the Village Attorney may agree, and to employ any additional legal assistance as may be necessary out of the funds of the municipality.
(1994 Code, § 1-208)

Statutory Reference:

Authorizing and Similar Provisions, See Neb. RS 17-610

§ 31.07 VILLAGE UTILITIES SUPERINTENDENT.

(A) A Utilities Superintendent shall be appointed in the event that there is more than 1 municipal utility and the Board of Trustees determines that it is in the best interest of the municipality to appoint 1 official to have the immediate control over all the municipal utilities. Any vacancy occurring in the office by death, resignation, or removal may be filled in the manner hereinbefore provided for the appointment of all municipal officials.

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

(1) *Water Department.* He or she shall have general supervision and control over the municipal water system and shall be primarily responsible for its economic operation and prudent management. Included in the water system shall be the water plant, the pump house, all machinery, and appliances used in connection with producing and distributing water to inhabitants of the municipality. All actions, decisions, and procedures of the Utilities Superintendent shall be subject to the general directives and control of the Board of Trustees. The Utilities Superintendent shall have the general control and supervisory authority over all employees of the Water System which the Board of Trustees may from time to time hire to operate and maintain the system. Unless some other official is specifically designated, he or she shall collect all money received by the municipality on account of the system of waterworks and shall faithfully account for and pay over to the Village Treasurer all the money collected in the name of the municipality and receive a receipt from the Village Treasurer for the depository evidence of the faithful discharge of this duty. This receipt shall then be filed with the Village Clerk, and the second copy shall be kept by the Superintendent. He or she shall make a detailed report to the Board of Trustees at least once every 6 months of the condition of the water system, of all mains, pipes, hydrants, reservoirs, and machinery and the improvements, repairs, and extensions thereof as he or she may think proper. The report shall show the amount of receipts and expenditures on account thereof for the preceding 6 months. No money shall be expended for improvements, repairs, or extensions of the waterworks system except upon the recommendation of the Superintendent. The Utilities Superintendent shall provide a bond conditioned upon the faithful discharge of duties which shall amount to not less than the amount set by resolution of the Board of Trustees and on file in the office of the Village Clerk/Treasurer. He or she shall perform the additional duties as may be prescribed by the Board of Trustees.

(2) *Sewer Department.* The Utilities Superintendent shall have the immediate control and supervision over all the employees and property that make up the municipal sewer system, subject to the general control and directives of the Board of Trustees. He or she shall at least every 6 months make a detailed report to the Board of Trustees on the condition of the sewer system and shall direct their attention to the improvements, repairs, extensions, additions, and additional employees as he or she may believe are needed along with an estimate of the cost thereof. He or she shall have the other duties as the Board of Trustees may delegate. He or she shall issue permits for all connections to the municipal sewer system and inspect and supervise all repairs made to the system.

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(3) *Street Department.* The Utilities Superintendent shall, subject to the orders and directives of the Board of Trustees, have general charge, direction, and control of all work on the streets, sidewalks, culverts, and bridges of the municipality and shall perform the other duties as the Board of Trustees may require. It shall be his or her responsibility to see that gutters and drains therein function properly and that the same are kept in good repair. He or she shall, at the request of the Board of Trustees, make a detailed report to the Board of Trustees on the condition of the streets, sidewalks, culverts, alleys, and bridges of the municipality and shall direct its attention to the improvements, repairs, extensions, additions, and additional employees as he or she may believe are needed to maintain a satisfactory street system in the municipality, along with an estimate of the cost thereof. He or she shall issue the permits and assume the other duties as the Board of Trustees may direct.

(1994 Code, § 1-211)

Statutory Reference:

Incentive Payments to Street Superintendents, See Neb. RS 39-2512

Water Commissioner Required, See Neb. RS 17-541

§ 31.08 REGULAR ENGINEER.

The Village Engineer shall make all surveys, estimates, and calculations necessary to be made for the establishment of any public utilities, and the costs of labor and materials therefor. He or she shall accurately make all plats, sections, and maps as may be necessary under the direction of the Board of Trustees. Upon request, he or she shall make estimates of the cost of labor and material which may be done or furnished by contract with the municipality, and make all surveys, estimates, and calculations necessary to be made for the establishment of grades, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, bridges, curbing, and gutters and the improvement of streets and erection and repair of buildings, and shall perform the other duties as the Board of Trustees may require.

(Neb. RS 17-150, 17-405, 17-568.01, 17-919, 81-839) (1994 Code, § 1-209)

§ 31.09 SPECIAL ENGINEER.

(A) The Board of Trustees may employ a Special Engineer to make or assist the Village Engineer in making any particular estimate, survey, or other work.

(B) The Special Engineer shall make a record of the minutes of his or her surveys and all other work done for the municipality.

(C) He or she shall, when directed by the Board of Trustees, accurately make all plats, sections, profiles, and maps as may be necessary in the judgment of the Board of Trustees.

(D) He or she shall, upon request of the Board of Trustees, make estimates of the costs of labor and material which may be done or furnished by contract with the municipality and make all surveys, estimates, and calculations necessary for the establishment of grades, bridges, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, curbing and gutters, and the improvement of streets and erection and repair of buildings, and shall perform the other duties as the Board of Trustees may require.

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

(1994 Code, § 1-210)

Appointed Village Officials

Statutory Reference:

Authority to Employ Special Engineer, See Neb. RS 17-568

Duties Related to Annexation, See Neb. RS 17-405

Duties Related to Public Works, See Neb. RS 17-568.01

Duties Related to Sewers, See Neb. RS 17-919

Engineers and Architects Regulation Act, See Neb. RS 81-3401 through 81-3455

§ 31.10 ZONING ADMINISTRATOR.

The Chairperson, with the advice and consent of the Board of Trustees, may appoint a Zoning Administrator. In the absence of a specific appointment by the Chairperson, the Village Clerk/Treasurer is hereby designated as Zoning Administrator.
(Neb. RS 17-604) (1994 Code, § 1-212)

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CHAPTER 32: DEPARTMENTS, BOARDS, AND COMMISSIONS

Sections:

Boards and Commissions

- 32.01 Planning Commission
- 32.02 Board of Adjustment
- 32.03 Board of Health

Utility Departments

- 32.15 Water Department; Operation and Funding
- 32.16 Sewer Department; Operation and Funding

BOARDS AND COMMISSIONS

§ 32.01 PLANNING COMMISSION.

(A) The Planning Commission shall consist of 5 regular members who shall represent, insofar as is possible, the different professions or occupations in the municipality and shall be appointed by the Chairperson, by and with the approval of a majority vote of the members elected to the Board of Trustees. Two of the regular members may be residents of the area over which the municipality is authorized to exercise extraterritorial zoning and subdivision regulation. When there is a sufficient number of residents in the area over which the municipality exercises extraterritorial zoning and subdivision regulation, 1 regular member of the Commission shall be a resident from the area. If it is determined by the Board of Trustees that a sufficient number of residents reside in the area subject to extraterritorial zoning and subdivision regulation, and no such resident is a regular member of the Commission, the first available vacancy on the Commission shall be filled by the appointment of the individual. For purposes of this section, a sufficient number of residents shall mean 500 residents. The term of each regular member shall be 3 years, except that 3 regular members of the first Commission shall serve for terms of 1 year, 3 for terms of 2 years, and 3 for terms of 3 years. All regular members shall hold office until their successors are appointed. Any member may, after a public hearing before the Board of Trustees, be removed by the Chairperson, with the consent of a majority vote of the members elected to the Board of Trustees, for inefficiency, neglect of duty or malfeasance in office, or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by the Chairperson.

(B) All regular members of the Commission shall serve without compensation and shall hold no other municipal office except when appointed to serve on the Board of Adjustment as provided in Neb. RS 19-908. All members of the Commission may be required, in the discretion of the Board of Trustees, to give bond in a sum set by resolution of the Board of Trustees, and conditioned upon the faithful performance of their duties. The Commission shall elect its Chairperson and a Secretary from its members and create and fill the other of its offices as it may determine. The term of the Chairperson and the Secretary shall be 1 year, and they shall be eligible for reelection. No member of the Commission shall serve in the capacity of both the Chairperson and Secretary of the Commission. It shall be the duty of the Secretary to keep the full and correct

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minutes and records of all meetings and to file the same with the Village Clerk/Treasurer where they shall be available for public inspection during office hours. The Commission shall be funded by the Board of Trustees from time to time out of the general fund. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the Board of Trustees; and no expenditures nor agreements for expenditures shall be valid in excess of the amounts. A number of Commissioners equal to a majority of the number of regular members appointed to the Commission shall constitute a quorum for the transaction of any business. The Commission shall hold at least 1 regular meeting in each calendar quarter, except the Board of Trustees may require the Commission to meet more frequently and the Chairperson of the Commission may call for a meeting when necessary to deal with business pending before the Commission. Special meetings may also be held upon the call of any 3 members of the Commission. The Commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record. The Commission shall make and adopt plans for the physical development of the municipality, including any areas outside its boundaries which, in the Commission's judgment, bear relation to the planning of the municipality, and shall carry out the other duties and exercise the powers specified in Neb. RS 19-929. All actions by the Commission shall be subject to the review and supervision of the Chairperson and Board of Trustees. The Commission shall make its recommendations to the Board of Trustees so that they are received by the Board of Trustees within 60 days after the Commission begins consideration of a matter relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning. The Commission shall be responsible for making the reports and performing the other duties as the Board of Trustees may, from time to time, designate.

(C) The Chairperson, with the approval of a majority vote of the elected members of the Board of Trustees, shall appoint 1 alternate member to the Commission. The alternate member shall serve without compensation and shall hold no other municipal office. The term of the alternate member shall be 3 years, and he or she shall hold office until his or her successor is appointed and approved. The alternate member may be removed from office in the same manner as a regular member. If the alternate member position becomes vacant other than through the expiration of the term, the vacancy shall be filled for the unexpired portion of the term by the Chairperson with the approval of a majority vote of the elected members of the Board of Trustees. The alternate member may attend any meeting and may serve as a voting and participating member of the Commission at any time when less than the full number of regular Commission members is present and capable of voting.
(Ord. 2001-2.1, passed 3-12-2001)

Statutory Reference:

General Provisions; Planning Commissions Regulated, See Neb. RS 19-924 through 19-929

§ 32.02 BOARD OF ADJUSTMENT.

Notwithstanding the provisions of Neb. RS 19-907 and 19-908, the Board of Trustees shall constitute the Board of Adjustment and shall exercise only the powers granted to the boards by Neb. RS 19-910. As the Board of Adjustment, it shall adopt rules and procedures that are in harmony with Neb. RS 19-907 to 19-910, and shall have the powers and duties therein provided for the Board of Adjustment, and other parties shall have all rights and privileges therein provided for. The concurring vote of 2/3 of the members of the Board of Adjustment shall decide any question upon which it is required to pass the Board.
(Neb. RS 19-911) (1994 Code, § 2-103)

Departments, Boards, and Commissions

§ 32.03 BOARD OF HEALTH.

(A) The Board of Trustees shall appoint a Board of Health which shall consist of 3 members. The members of the Board shall include the Chairperson of the Board of Trustees, who shall serve as Chairperson, and 2 other members. One member shall be a physician or health care provider, if 1 can be found who is willing to serve. The physician or health care provider, if appointed, shall be the Board's medical advisor. The members of the Board shall serve, without compensation, a 1-year term of office, unless reappointed and unless removed by the Chairperson of the Board of Trustees with the advice and consent of the Trustees. The members of the Board shall reorganize at the first meeting in December of each year. No member of the Board of Health shall hold more than 1 Board of Health position.

(B) The Secretary shall keep full and correct minutes and records of all meetings and file the same with the Village Clerk/Treasurer where they shall be available for public inspection during office hours. The Board of Health shall be funded by the Board of Trustees from time to time out of the general fund. A majority of the Board shall constitute a quorum for the purpose of doing business. The Board shall meet at the times as the Board of Trustees may designate. Special meetings may be held upon the call of the Chairperson, or any 2 members of the Board.

(C) The Board shall enact rules and regulations, which shall have the full force and effect of law, to safeguard the health of the people of the municipality. The Board shall to enforce the rules and regulations and provide fines and punishments for any violations thereof. It may regulate, suppress, and prevent the occurrence of nuisances and enforce all laws of the State of Nebraska and ordinances of the municipality relating to nuisances and to matters of sanitation which affect the health and safety of the people. The Board shall regularly inspect the premises and businesses as the Board of Trustees may direct. All members of the Board shall be responsible for making the reports and performing the other duties as the Board of Trustees may, from time to time, designate. (Neb. RS 17-208) (Ord. 1997-8.3, passed 8-11-1997)

UTILITY DEPARTMENTS

§ 32.15 WATER DEPARTMENT; OPERATION AND FUNDING.

The municipality owns and operates the Water Department through the Board of Trustees or its authorized agent. The Board of Trustees, for the purpose of defraying the cost of the care, management, and maintenance of the Water Department may each year levy a tax not exceeding the maximum limit prescribed by state law, on the taxable value of all taxable property within the corporate limits that is subject to taxation. The revenue from the tax shall be known as the water fund and shall remain in the custody of the Village Clerk/Treasurer. The Board of Trustees or its authorized agent shall have the direct management and control of the Water Department. The Board of Trustees shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department. The Board of Trustees shall set the rates to be charged for services rendered and shall file a copy of the rates in the office of the Village Clerk/Treasurer for public inspection at any reasonable time. (1994 Code, § 3-101)

Statutory Reference:

Bonds, Interest, and Taxing Authority, See Neb. RS 17-534

Public Utility Extension and Improvements, See Neb. RS 19-1305

Waterworks Acquisition and Construction Authorized, See Neb. RS 17-531

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§ 32.16 SEWER DEPARTMENT; OPERATION AND FUNDING.

(A) The municipality owns and operates the Municipal Sewer System through the Utilities Superintendent. The Board of Trustees, for the purpose of defraying the cost of the operation, maintenance, and replacement (OM&R) of the Municipal Sewer System may establish a user charge system based on actual use and revise the charges, if necessary, to accomplish the following:

(1) Maintain the proportional distribution of operation, maintenance, and replacement (OM&R) costs among users and user classes;

(2) Generate adequate revenues to pay the costs of OM&R; and

(3) Apply excess revenues collected from a class of users to the costs of OM&R attributable to that class for the next year and adjust the rates accordingly.

(B) The revenue from the user charge system based on actual use shall be known as the sewer maintenance fund. The Utilities Superintendent shall have the direct management and control of the Sewer Department and shall faithfully carry out the duties of his office. He or she shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Department subject to the supervision and review of the Board of Trustees.
(Neb. RS 17-149, 17-925.01) (1994 Code, § 3-201)

CHAPTER 33: GENERAL PROVISIONS

Sections:

Meetings

- 33.01 When; Where; Quorum
- 33.02 Special Meetings
- 33.03 Change in Office
- 33.04 Organizational Meetings

Bonds and Oaths

- 33.30 Bonds; Form
- 33.31 Oath of Office; Village Officials

Compensation

- 33.45 Village Officials
- 33.46 Conflict of Interest
- 33.47 Appointed Officials; Salary Ranges
- 33.48 Elected Officials; Salaries

Cross-reference:

Appointed Village Officials, See Ch. 31
Departments, Boards, and Commissions, See Ch. 32
Elected Officials; Ordinances, See Ch. 30
Finance and Revenue, See Ch. 34

MEETINGS

§ 33.01 WHEN; WHERE; QUORUM.

(A) The meetings of the Board of Trustees shall be held at the Village Hall, 685 Monroe Street. Regular meetings shall be held on the second Monday of each month. Regular meetings of the Board shall commence at 8:00 p.m. during the months of April through October and at 7:00 p.m. during the months of November through March.

(B) At all meetings of the Board of Trustees, a majority of the Board shall constitute a quorum to do business. 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.
(Neb. RS 17-205)

(C) At the hour appointed for the meeting, the Village Clerk/Treasurer shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the

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Board shall be called to order by the Chairperson, if present. In the absence of the Chairperson, the members of the Board of Trustees shall elect a Chairperson pro tempore.
(1994 Code, § 1-513) (Am. Ord. 2013-2.1, passed 2-11-2013)

Statutory Reference:

Appointment of Chairperson pro tempore, See Neb. RS 17-210

Designation of Time and Place for Meetings, See Neb. RS 17-104

§ 33.02 SPECIAL MEETINGS.

(A) Special meetings may be called by the Chairperson or by 3 members of the Board of Trustees, the object of which shall be submitted to the Board of Trustees in writing. The call and object, as well as the disposition thereof, shall be entered upon the journal by the Village Clerk/Treasurer.

(B) On filing the call for a special meeting, the Village Clerk/Treasurer shall notify the Board of Trustees of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a Trustee known to be out of the state or physically unable to be present.

(C) All ordinances passed at any special meeting shall comply with procedures set forth in §§ 30.30 through 30.38.
(1994 Code, § 1-514)

§ 33.03 CHANGE IN OFFICE.

The change in office shall be made as follows: the Chairperson and Board of Trustees shall meet on the first regular meeting date in December of each year in which a municipal election is held and the outgoing officers and the outgoing members of the Board of Trustees shall present their reports, and upon the old Board of Trustees having completed its business up to the time, the outgoing members of the Board of Trustees shall surrender their offices to the incoming members, and the outgoing officers shall thereupon each surrender to his or her successor in office all property, records, papers, and moneys, belonging to the same.
(1994 Code, § 1-511)

§ 33.04 ORGANIZATIONAL MEETINGS.

(A) The newly elected Board of Trustees shall convene at the regular place of meeting at the first regular meeting of the Board in each election year immediately after the prior Board adjourns and proceed to organize themselves for the ensuing year. The Chairperson pro tempore shall call the meeting to order. The Board shall then proceed to examine the credentials of its members and other elective officers of the municipality to see that each has been duly and properly elected and to see that the oaths and bonds have been given as are required.

(B) After ascertaining that all trustees and officers are duly qualified, the Board shall then elect 1 of its own body who shall be styled as Chairperson of the Board of Trustees. The Chairperson shall then nominate his or her candidates for appointive offices, and the officers shall hold office until their successors are duly appointed and qualified. The Chairperson shall then proceed with the regular order of business.

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(C) It is hereby made the duty of each and every member of the Board or of its successors in office and of each officer hereafter elected to any office, to qualify prior to the first regular meeting of the Board in December following his or her election. Immediately upon the assembly of the newly elected Board upon the first regular meeting in December following the election, each officer elected at the general election shall take possession of his or her office. Each appointive officer who is required to give bond shall qualify by filing the required bond, approved by the Board of Trustees, in the office of the Village Clerk/Treasurer within 2 weeks from the date of his or her appointment, provided that on the bond shall be endorsed the same oath as required of a trustee. Failure to qualify by elective or appointive officers within the time and manner provided in this section shall and does in itself create a vacancy in the office to which the person failing to qualify shall have been elected or appointed.

(1994 Code, § 1-512)

Statutory Reference:

Oath; Meetings Generally, See Neb. RS 17-204

BONDS AND OATHS

§ 33.30 BONDS; FORM.

The Board of Trustees may require from all officers and servants, elected or appointed, bonds and security for the faithful performance of their duty. Official bonds of the municipality shall be in form joint and several and shall be made payable to the municipality in the penalty as the Board of Trustees may set by resolution, provided that the penalty amount on any bond shall not fall below the legal minimum, when 1 has been set by the State of Nebraska, for each particular official. All official bonds of the municipal officials shall be executed by the principal named in the bonds and by at least 2 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 that no municipal official, while still in his or her official term of office, shall be accepted as surety on any other official's bond, contractor's bond, license bond, or appeal bond under any circumstances. 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 municipality. All the bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of the principal and shall inure to the benefit of the municipality and any persons who may be injured by a breach of the conditions of the bonds. No bond shall be deemed to be given or complete until the approval of the Board of Trustees and all sureties are endorsed in writing on the said instrument by the Chairperson and Village Clerk/Treasurer pursuant to the approval of the Board of Trustees. The premium on any official bond required to be given may be paid out of the general fund or other proper municipal fund, upon a resolution to that effect by the Board of Trustees at the beginning of any municipal year. All official bonds, meeting the conditions herein, shall be filed with the Village Clerk/Treasurer for his or her official records, and it shall be the duty of the Village Clerk/Treasurer to furnish a certified copy of any bond so filed upon the payment of a fee, which shall be set by resolution of the Board of Trustees. In the event that the sureties on the official bond of any officer of the municipality, in the opinion of the Board of Trustees, become insufficient, the Board of Trustees may, by resolution, fix a reasonable time within which the 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 Board of Trustees, then the office shall, by the failure, refusal, or neglect, become vacant, and it shall be the duty of the Board of Trustees to appoint a competent and qualified person to fill the said office. Any official who is re-elected to office shall be required to file a new bond after each election.

(1994 Code, § 1-301)

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Statutory Reference:

Bonds Generally and Similar Provisions, See Neb. RS 11-103 through 11-118
Power to Regulate Offices, See Neb. RS 17-604

§ 33.31 OATH OF OFFICE; VILLAGE OFFICIALS.

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

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

(B) If any officer is not required to give bond, the oath shall be filed with the Village Clerk/Treasurer.
(Neb. RS 11-101) (1994 Code, § 1-302)

COMPENSATION

§ 33.45 VILLAGE OFFICIALS.

(A) The compensation of any elective official of the municipality shall not be increased or diminished during the term for which he or she shall have been elected except when there has been a merger of offices, provided that the compensation of the members of the Board of Trustees, 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 1 or more members commence and end at different times.

(B) No elected official may be rehired at a greater salary if he or she resigns and desires to be rehired during the unexpired term of office. He or she may be rehired after the term of office during which he or she resigned at a greater salary.

(C) All salaries shall be set by ordinance of the Board of Trustees and will be available for public inspection at the office of the Village Clerk/Treasurer.
(1994 Code, § 1-901)

Statutory Reference:

Compensation for Merged Offices, See Neb. RS 17-209.02
Compensation of Elected Offices Regulated, See Neb. RS 17-612

General Provisions

§ 33.46 CONFLICT OF INTEREST.

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

BUSINESS ASSOCIATION.

(a) A business:

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

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

(b) An individual who occupies a confidential professional relationship protected by law shall be exempt from this definition. This definition shall not apply to publicly traded stock under a trading account if the filer reports the name and address of the stockbroker.
(Neb. RS 49-1408)

IMMEDIATE FAMILY. A child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes.
(Neb. RS 49-1425)

OFFICER.

(a) Means:

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

2. Any elected municipal official.

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

(B) (1) (a) Except as provided in Neb. RS 49-1499.04, no officer may have an interest in any contract to which his or her governing body, or anyone for its benefit, is a party. The existence of an interest in any contract shall render the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment of the contract with actual knowledge of the prohibited conflict.

(b) An action to have a contract declared void under this section may be brought by the County Attorney, the governing body, or any resident within the jurisdiction of the governing body and shall be brought within 1 year after the contract is signed or assigned. The decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the governing body has benefitted thereby.

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

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

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

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

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

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

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

(D) An officer who has no business association with the business involved in the contract or will not receive a direct pecuniary fee or commission as a result of the contract shall not be deemed to have an interest within the meaning of this section.

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

(F) If an officer's parent, spouse, or child is an employee of the officer's governing body, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his or her parent, spouse, or child for special action.

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

(a) Names of the contracting parties;

(b) Nature of the interest of the officer in question;

(c) Date that the contract was approved by the governing body;

(d) Amount of the contract; and

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(e) Basic terms of the contract.

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

(Neb. RS 49-14,103.02)

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

(Neb. RS 49-14,103.03)

(I) Notwithstanding divisions (A) through (H) of this section, the governing body may prohibit contracts over a specific dollar amount in which an officer of the governing body may have an interest.

(Neb. RS 49-14,103.05)

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

(Neb. RS 49-14,103.06) (1994 Code, § 1-902)

Statutory Reference:

Contracts with Governmental Bodies, See Neb. RS 49-14,102

Private Gain by Public Officers, See Neb. RS 18-305 through 18-312

Utility Officers Permitted to Serve in Elected Office, See Neb. RS 70-624.04

§ 33.47 APPOINTED OFFICIALS; SALARY RANGES.

(A) Commencing January 1, 2013, the salary ranges for the appointed officials of the Village of Bennet, Nebraska, are hereby fixed as follows:

(1) Village Clerk/Treasurer - \$7.25 to \$20 per hour;

(2) Office Assistant - \$7.25 to \$16 per hour;

(3) Utilities Superintendent - \$10 to \$20 per hour;

(4) Maintenance Personnel - \$10 to \$18 per hour;

(5) Garbage Transfer Site Custodian - \$7.25 to \$15 per hour; and

(6) Additional Permanent or Temporary, Part-Time Employees - \$7.25 to \$20 per hour.

(B) The exact salary of the above appointed officials within the salary ranges set forth above shall be established by resolution of the Village Board of Trustees and this section and the resolutions adopted pursuant to this section shall be available for public inspection in the office of

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the Village Clerk/Treasurer of the Village of Bennet, Nebraska. All salaries of the appointed officials of the Village of Bennet, Nebraska, shall be published as provided by law. (Ord. 2002-6.1, passed 6-10-2002; Am. Ord. 2005-6.1, passed 6-13-2005; Am. Ord. 2005-11.2, passed 11-14-2005; Am. Ord. 2008-10.3, passed 10-13-2008; Am. Ord. 2011-2.1, passed 2-14-2011; Am. Ord. 2011-12.1, passed 12-12-2011; Am. Ord. 2012-12.1, passed 12-10-2012)

§ 33.48 ELECTED OFFICIALS; SALARIES.

(A) The salaries for the elected officials of the Village of Bennet, Nebraska, are hereby fixed as follows:

- (1) Chairperson - \$360 per year; and
- (2) Trustees - \$180 per year.

(B) The salaries shall be paid in December of each year, and shall be prorated in the case of resignation, vacancy created by the operation of law, removal from office, or death. All salaries of elected officials of the Village of Bennet, Nebraska, shall be published as provided by law. (Ord. 1998-11.1, passed 11-9-1998)

CHAPTER 34: FINANCE AND REVENUE

Sections:

General Provisions

- 34.01 Public Funds Defined
- 34.02 Contracts and Purchases; Bidding and other Requirements
- 34.03 Annual Audit; Financial Statements
- 34.04 Claims; Warrants
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Tax Levies

- 34.60 All-Purpose Levy; Allocation; Abandonment; Extraordinary Levies
- 34.61 Property Tax Levy; Maximum; Authority to Exceed
- 34.62 Property Tax; Certification of Amount
- 34.63 Property Tax Levy and Request; Authority to Set
- 34.64 Motor Vehicle Tax

GENERAL PROVISIONS

§ 34.01 PUBLIC FUNDS DEFINED.

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

PUBLIC FUNDS. All money, including nontax money, used in the operation and functions of governing bodies. If the municipality has a lottery established under the Nebraska County and Village Lottery Act, only those net proceeds which are actually received by the municipality from a

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licensed lottery operator shall be considered *PUBLIC FUNDS*, and *PUBLIC FUNDS* shall not include amounts awarded as prizes.
(Neb. RS 13-503(7))

§ 34.02 CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS.

(A) Except as provided in Neb. RS 18-412.01, for a contract with a public power district to operate, renew, replace, or add to the electric distribution, transmission, or generation system of the municipality, no contract for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of the enlargement or improvement is assessed to the property, costing over \$20,000, shall be made unless it is first approved by the Board of Trustees.

(B) Except as provided in Neb. RS 18-412.01, before the Board of Trustees makes any contract in excess of \$20,000 for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of the enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the Village Engineer and submitted to the Board of Trustees. In advertising for bids as provided in divisions (C) and (E) of this section, the Board of Trustees may publish the amount of the estimate.

(C) Advertisements for bids shall be required for any contract costing over \$20,000 entered into:

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

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

(D) The advertisement provided for in division (C) of this section shall be published at least 7 days prior to the bid closing in a legal newspaper published in or of general circulation in the municipality and, if there is no legal newspaper published in or of general circulation in the municipality, then in some newspaper of general circulation published in the county in which the municipality is located, and if there is no legal newspaper of general circulation published in the county in which the municipality is located, then in a newspaper, designated by the County Board, having a general circulation within the county where bids are required, and if no newspaper is published in the municipality or county, or if no newspaper has general circulation in the county, then by posting a written or printed copy thereof in each of 3 public places in the municipality at least 7 days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of or serious injury or damage to life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by Neb. RS 17-613 when adopted by a 3/4 vote of the Board of Trustees and entered of record.

(E) If, after advertising for bids as provided in this section, the Board of Trustees receives fewer than 2 bids on a contract or if the bids received by the Board of Trustees contain a price which exceeds the estimated cost, the Board of Trustees may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost commensurate with the estimate given.

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

(G) Any municipal bidding procedure may be waived by the Board of Trustees:

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

(2) When the contract is negotiated directly with a sheltered workshop pursuant to Neb. RS 48-1503.
(Neb. RS 17-568.02) (Ord. 1999-7.26, passed 7-12-1999)

Statutory reference:

Requirements for Public Lettings, See Neb. RS 73-101, et seq.

§ 34.03 ANNUAL AUDIT; FINANCIAL STATEMENTS.

(A) (1) The Board of Trustees shall cause an audit of the village's accounts to be made by a recognized independent and qualified accountant as expeditiously as possible following the close of the fiscal year and to cover all financial transactions and affairs of the village for the preceding fiscal year. The audit shall be made on a cash or accrual method at the discretion of the Board of Trustees. The audit shall be completed and the annual audit report made by the accountant shall be submitted within 6 months after the close of the fiscal year in any event, unless an extension of time is granted by a written resolution adopted by the Board of Trustees. The Board of Trustees may request a waiver of the audit requirement subject to the requirements of Neb. RS 84-304. If the village is required to conduct an audit under Neb. RS 84-304 and owns or operates any type of public utility or other enterprise which substantially generates its own revenue, the Board of Trustees shall have that phase of the village's affairs reported separately from the other functions of the village. The result of the audit shall appear separately in the annual audit report made by the accountant to the village, and the audit shall be on a cash or accrual basis at the discretion of the Board of Trustees.

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

(3) (a) At least 3 copies of the annual audit report shall be properly signed and attested by the accountant; 2 copies shall be filed with the Village Clerk/Treasurer and 1 copy shall be filed with the Auditor of Public Accounts.

(b) The annual audit report filed, together with any accompanying comment or explanation, shall become a part of the public records of the Village Clerk/Treasurer and shall at all times thereafter be open and subject to public inspection.

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(B) The Board of Trustees shall provide and file with the Village Clerk/Treasurer, not later than August 1 of each year, financial statements showing the village's actual and budgeted figures for the most recently completed fiscal year.
(Neb. RS 13-606) (Ord. 2003-10.8, passed 10-20-2003)

Statutory Reference:

State Municipal Auditing Regulations; Similar Provisions, See Neb. RS 19-2901 through 19-2909

§ 34.04 CLAIMS; WARRANTS.

(A) All claims against the municipality shall be presented to the Board of Trustees 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 municipality in any action brought against it for an unliquidated claim which has not been presented to the Board of Trustees 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 municipal treasury for the appropriate fund against which it is to be drawn, provided that in the event there exists obligated funds from the federal and/or state government for the general purpose of the warrant, then the warrant may be drawn in excess of 85%, but not more than 100% of the current levy for the purpose for which the warrant is drawn.
(1994 Code, § 1-817)

(B) All warrants drawn upon the municipal treasury must be signed by the Board Chairperson and countersigned by the Village Clerk/Treasurer, stating the particular fund to which the warrant is chargeable, the person to whom payable, and for what particular object. No money shall be otherwise paid than upon warrants so drawn. Each warrant shall specify the amount included in the adopted budget statement for the fund upon which it is drawn and the amount already expended of the fund.
(Neb. RS 17-711) (1994 Code, § 1-818)

Statutory Reference:

Similar Provisions, See Neb. RS 17-714 and 17-715

§ 34.05 EXPENDITURES.

(A) No municipal official shall have the power to appropriate, issue, or draw any order or warrant on the municipal treasury for money, unless the same has been appropriated or ordered by ordinance.
(Neb. RS 17-708)

(B) No expenditure for any improvement to be paid for out of the general fund of the municipality shall exceed in any 1 year the amount provided for that improvement in the adopted budget statement.
(1994 Code, § 1-814)

§ 34.06 SPECIAL ASSESSMENT FUND.

All money received on special tax assessments shall be held by the Village Clerk/Treasurer as a special fund to be applied to the payment of the improvement for which the assessment was

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made, and the money shall be used for no other purpose whatever, unless to reimburse the municipality for money expended for the improvement.
(Neb. RS 17-710) (1994 Code, § 1-819)

§ 34.07 SINKING FUNDS.

(A) The Board of Trustees, 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 taxable value of all taxable property within the municipality 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 municipality, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, original equipment, or repair, not including maintenance, of the approved uses as authorized by state law.
(Neb. RS 19-1302)

(B) To initiate the sinking fund, the Board of Trustees shall declare its purpose by resolution to submit to the qualified electors of the municipality the proposition to provide the improvement at the next general municipal election. The resolution shall set forth a clear description of the improvement, the estimated cost, the amount of the annual levy, over a definite period of years (not exceeding 10 years) required to pay the cost, and the specific name or designation for the sinking fund sought to be established to carry out the planned improvement, together with a statement of the proposition for placement upon the ballot at the election. Notice of the proposition shall be published in its entirety 3 times on successive weeks before the day of the election in a legal newspaper of general circulation in the municipality. 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 Board of Trustees may then proceed to establish the fund in conformity with the provisions of the proposition and applicable state law. The funds received by the Village Clerk/Treasurer shall, as they accumulate, be immediately invested with the written approval of the Board of Trustees 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 Board of Trustees is authorized to do so by 60% of the qualified electors of the municipality voting at a general election favoring the change in the use of the sinking fund.
(1994 Code, § 1-820)

Statutory Reference:

Investment of Funds, See Neb. RS 77-2337 and 77-2341

Similar Provisions, See Neb. RS 19-1301 through 19-1304

§ 34.08 DEPOSIT OF FUNDS.

The Board of Trustees, at its first meeting in each fiscal year, shall designate 1 or more banks, capital stock financial institutions, or qualifying mutual financial institutions of approved and responsible standing in which the Village Clerk/Treasurer shall keep at all times all money held by him or her; provided, if more than 1 such bank or institution in the village qualifies and applies for the privilege of keeping the money, the money shall be deposited in each of them, and the Village Clerk/Treasurer shall not give a preference to any 1 or more of them in the money he or she shall deposit. A bond shall be required from all banks or institutions so selected in a penal sum which equals the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or a pledge of sufficient assets of the bank or institution to secure the payment of all the deposits.

(Neb. RS 17-607, 77-2362 through 77-2364) (Ord. 2003-10.9, passed 10-20-2003)

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§ 34.09 CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS.

(A) The Village Clerk/Treasurer may, upon resolution of the Board of Trustees 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 the 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. RS 77-2366 shall apply to deposits in capital stock financial institutions.

(B) For the security of the fund so deposited, the Municipal Clerk/Treasurer shall require each depository to give bond for the safekeeping and payment of the deposits and the accretions thereof, which bond shall run to the municipality and be approved by the Chairperson. The bond shall be conditioned that the a depository shall, at the end of every quarter, render to the Clerk/Treasurer a statement in duplicate, showing the several daily balances, the amount of money of the municipality held by it during the quarter, the amount of the accretion thereto, and how credited. The bond shall also be conditioned that the depository shall generally do and perform whatever may be required by the provisions of this section and all regulations imposed by law or adopted by the Board of Trustees for the receiving and holding thereof and shall faithfully discharge the trust reposed in the depository. The bond shall be as nearly as practicable in the form provided in section Neb. RS 77-2304. No person in any way connected with any depository as an officer or stockholder shall be accepted as a surety on any bond given by the depository of which he or she is an officer or stockholder. The bond shall be deposited with the Village Clerk/Treasurer.

(C) In lieu of the bond required by division (B) above, any bank or capital stock financial institution making application to become a depository may give security as provided in the Public Funds Deposit Security Act to the Village Clerk/Treasurer. The penal sum of the bond shall be equal to or greater than the amount of the deposit in excess of that portion of the deposit insured by the Federal Deposit Insurance Corporation.

(D) The Clerk/Treasurer shall not have on deposit in any bank or capital stock financial institution at any time more than the amount insured by the Federal Deposit Insurance Corporation plus the maximum amount of the bond given by the bank or capital stock financial institution if the bank or capital stock financial institution gives a surety bond, nor in any bank or capital stock financial institution giving a personal bond, more than the amount insured by the Federal Deposit Insurance Corporation plus ½ of the amount of the bond of the bank or capital stock financial institution, and the amount so on deposit any time with any bank or capital stock financial institution shall not in either case exceed the amount insured by the Federal Deposit Insurance Corporation plus the paid-up capital stock and surplus of the bank or capital stock financial institution. The Clerk/Treasurer shall not be liable for any loss sustained by reason of the failure of any bonded depository whose bond has been duly approved by the Chairperson as provided in division (B) of this section or which has, in lieu of a surety bond, given security as provided in division (C) of this section.

(Neb. RS 17-720, 16-714 through 16-716) (Ord. 1999-7.25, passed 7-12-1999)

§ 34.10 INVESTMENT OF FUNDS.

Whenever a village has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in the sinking fund exceeds the amount necessary to pay the principal and interest of the bonds which become due during the current year, the Board of Trustees may invest the surplus in certificates of deposit, in

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time deposits, and in any securities in which the state investment officer is authorized by law and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made.

(Neb. RS 77-2341(1)) (1994 Code, § 1-822)

Statutory Reference:

Investment in Bonds, See Neb. RS 17-608 and 17-609

Investment in Cooperative Credit Associations, See Neb. RS 21-1316.01

Investment of Funds, See Neb. RS 77-2337 and 77-2341

§ 34.11 BOND ISSUES.

(A) The Board of Trustees may, after meeting all the requirements of state law, issue bonds, fund bonds, and retire bonds for the purposes as may be permitted by state law.

(B) The Board of Trustees shall have the authority to levy special assessments for the payment of interest and principal on the bonds and may spread the payments up to the maximum number of years permitted by state law.

(1994 Code, § 1-823)

Statutory Reference:

Bonds in General, See Neb. RS 18-1801 through 18-1805

Boundary Bridge Bonds, See Neb. RS 39-835 through 39-842.01

Cemetery Bonds, See Neb. RS 12-1001 through 12-1004 and RS 17-939

Cold Storage Plant Bonds, See Neb. RS 17-958

Compromise of Indebtedness, See Neb. RS 10-301 through 10-305

Dikes, See Neb. RS 17-529.01

Flood Control Project Bonds, See Neb. RS 17-529.08

Funding and Refunding Bonds, See Neb. RS 10-606 through 10-614

General Provisions, See Neb. RS 10-101 through 10-143

Internal Improvement Bonds, See Neb. RS 10-401 through 10-411

Joint Power Plant Bonds, See Neb. RS 17-911

Library Bonds, See Neb. RS 17-968

Medical and Multiunit Facility Bonds, See Neb. RS 23-3513

Power Plant Bonds, See Neb. RS 17-908

Uniform Registration and Cancellation of Bonds, See Neb. RS 10-201 through 10-209

Utilities Bonds, See Neb. RS 17-905

Waterworks Bonds, See Neb. RS 17-534

ANNUAL BUDGET

§ 34.30 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.

(Neb. RS 17-701) (1994 Code, § 1-801)

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§ 34.31 BUDGET PROCEDURES.

The budget instruction manual prepared by the Auditor of Public Accounts is incorporated by reference for the purpose of proper budget preparation.
(1994 Code, § 1-805)

§ 34.32 EXPENDITURES PRIOR TO ADOPTION OF BUDGET.

(A) On and after the first day of its fiscal year in 1993 and of each succeeding year and until the adoption of the budget by the Board of Trustees in September, the Board of Trustees may expend any balance of cash on hand for the current expenses of the municipality. Except as provided in division (B) of this section, the expenditures shall not exceed an amount equivalent to the total amount expended under the last budget in the equivalent period of the prior budget year. The expenditures shall be charged against the appropriations for each individual fund or purpose as provided in the budget when adopted.
(Neb. RS 13-509.01)

(B) The restriction on expenditures in division (A) of this section may be exceeded upon the express finding of the Board of Trustees that expenditures beyond the amount authorized are necessary to enable the municipality to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the statutory authorization shall be adopted by the Board of Trustees in open public session. Expenditures authorized by this section shall be charged against appropriations for each individual fund or purpose as provided in the budget when adopted, and nothing in this section shall be construed to authorize expenditures by the municipality in excess of that authorized by any other statutory provision.
(Neb. RS 13-509.02)

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

(A) The Board of Trustees 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 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. The statement shall contain the cash reserve for each fiscal year and shall note whether or not the reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years. The cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;

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(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 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 for the purpose of paying the principal or interest on bonds issued by the Board of Trustees and for all other purposes;

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

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

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

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

(D) The estimated expenditures plus the required cash reserve for the ensuing fiscal year 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 the 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. RS 13-505) (Ord. 2003-10.5, passed 10-20-2003)

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

(A) The Board of Trustees 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 5 days prior to the date set for the hearing in a newspaper of general circulation within the municipality.

(B) After the hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of the hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. The certification of the amount to be received from personal and real property taxation shall specify separately the amount to be

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applied to the payment of principal or interest on bonds issued by the Board of Trustees and the amount to be received for all other purposes.

(C) If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of the changes shall be published within 20 days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for the changes.
(Neb. RS 13-506)

(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. RS 13-507)
(Ord. 2003-10.6, passed 10-20-2003)

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

(A) (1) After publication and hearing on the proposed budget statement and within the time prescribed by law, the Board of Trustees shall file with and certify to the levying board on or before September 20 of each year and file with the Auditor of Public Accounts, a copy of the adopted budget statement, together with the amount of the tax required to fund the adopted budget, setting out separately:

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

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

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

(B) (1) The Board of Trustees, in certifying the amount required, may make allowance for delinquent taxes not exceeding 5% of the amount required plus the actual percentage of delinquent taxes for the preceding tax year 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.

(2) 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 which is still pending. Except for the allowances, the Board of Trustees shall not certify an amount of tax more than 1% greater or lesser than the amount determined in the proposed budget statement.

(C) The Board of Trustees may designate 1 of its members to perform any duty or responsibility required of the body by this section.
(Neb. RS 13-508) (Ord. 1999-7.18, passed 7-12-1999)

§ 34.36 APPROPRIATION BILL.

The Board of Trustees shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill," in which are appropriated the sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the municipality.
(Neb. RS 17-706) (1994 Code, § 1-807)

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§ 34.37 BUDGET REVISION.

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

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

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

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

(B) Notice of the time and place of the hearing shall be published at least 5 days prior to the date set for hearing in a newspaper of general circulation within the municipality. The published notice shall set forth:

(1) The time and place of the hearing;

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

(3) A statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year to meet the need for additional money in that manner;

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

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

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

(D) Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the Board of Trustees, the Board of Trustees shall file with the County Clerk/Treasurer of the county or counties in which the Board of Trustees is located, and with the Auditor of Public Accounts, a copy of the revised budget, as adopted. The Board of Trustees may then issue warrants in payment for expenditures authorized by the adopted revised budget. The 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. RS 13-506, a Board of Trustees may, or within 30 days after notification of an error by the Auditor of Public Accounts, a Board of Trustees shall, correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than 1% or increase the amount required from property taxes. No public hearing shall be required for the correction. After

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correction, the Board of Trustees shall file a copy of the corrected budget with the County Clerk of the county or counties in which the Board of Trustees is located and with the Auditor of Public Accounts. The Board of Trustees may then issue warrants in payment for expenditures authorized by the budget.

(Neb. RS 13-511) (Ord. 2003-10.7, passed 10-20-2003)

TAX LEVIES

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

(A) The Board of Trustees has decided to certify to the County Clerk for collection 1 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. RS 77-3442, the all-purpose levy shall not exceed the annual levy specified in Neb. RS 19-1309 to be levied upon the taxable valuation of all taxable property in the municipality.

(Neb. RS 19-1309)

(B) (1) The amount of the all-purpose levy shall be certified as a single amount for general fund purposes.

(Neb. RS 19-1312)

(2) The Board of Trustees shall allocate the amount raised by the all-purpose levy to the several departments of the municipality in its annual budget and appropriation ordinance, or in other legal manner, as the Board of Trustees deems wisest and best.

(Neb. RS 19-1310)

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

(Neb. RS 19-1311)

(D) Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the municipality may be made by the municipality in addition to the all-purpose levy.

(Neb. RS 19-1309) (Ord. 1999-7.22, passed 7-12-1999)

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

(A) Property tax levies for the support of the village for fiscal years beginning on or after 7-1-1998, shall be limited to the amounts set forth in this division (A), except as provided in division (C). The village may levy a maximum levy of \$0.45 per \$100 of taxable valuation of property subject to the levy plus an additional \$0.05 per \$100 of taxable valuation to provide financing for the village's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. RS 51-201, museum pursuant to Neb. RS 51-501, visiting community nurse, home health nurse, or home health agency pursuant to Neb. RS 71-1637, or statue, memorial, or monument pursuant to Neb. RS 80-202. Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against the village which require or obligate the village to pay the judgment, to the extent the judgment is not paid by liability insurance coverage of the village, for preexisting lease-purchase contracts approved prior to 7-1-1998, for bonded indebtedness approved according to law and

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secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this division (A). The limitations on tax levies provided in this division (A) are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this division (A) are those provided by or authorized by this section. Tax levies in excess of the limitations in this section shall be considered unauthorized levies under Neb. RS 77-1606 unless approved under division (C). (Neb. RS 77-3442)

(B) (1) All city airport authorities established under the Cities Airport Authorities Act, and community redevelopment authorities established under the Community Development Law may be allocated property taxes as authorized by law which are authorized by the village and are counted in the municipal levy limit provided by division (A), except that the limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to 7-1-1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport. The Board of Trustees shall review and approve or disapprove the levy request of the political subdivisions subject to this division (B). The Board of Trustees may approve all or a portion of the levy request and may approve a levy request that would allow a levy greater than that permitted by law. The levy allocated by the village may be exceeded as provided in division (C).

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

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

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

2. Forward a copy of the resolution to the Chairperson of the Board of Trustees of each of its political subdivisions.

(b) No final levy allocation shall be changed after September 1 except by agreement between both the Board of Trustees and the Board of Trustees of the political subdivision whose final levy allocation is at issue. (Neb. RS 77-3443)

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

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

(a) By passing a resolution calling for exceeding the limits by a vote of at least 2/3 of the members of the Board of Trustees and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the village; or

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

(3) The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in division (A) and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than 5 years. Any resolution or petition calling for a special election shall be filed with the County Clerk or Election Commissioner no later than 30 days prior to the date of the election, and the time of publication and providing a copy of the notice of election required in Neb. RS 32-802 shall be no later than 20 days prior to the election.

(4) The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition. The election shall be held pursuant to the Election Act. For petitions filed with the County Clerk or Election Commissioner on or after 5-1-1998, the petition shall be in the form as provided in Neb. RS 32-628 through 32-631.

(5) Any excess levy authority approved under this division (C) shall terminate pursuant to its terms, on a vote of the Board of Trustees to terminate the authority to levy more than the limits, at the end of the fourth fiscal year following the first year in which the levy exceeded the limit, or as provided in division (C)(8), whichever is earliest.

(6) The Board of Trustees may pass no more than 1 resolution calling for an election pursuant to this division (C) during any one calendar year. Only 1 election may be held in any 1 calendar year pursuant to a petition initiated under this division (C). The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the language specified in Neb. RS 77-3444.

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

(8) In lieu of the election procedures in this division (C), the village may approve a levy in excess of the limits in division (A) for a period of 1 year at a meeting of the residents of the village, called after notice is published in a newspaper of general circulation in the village at least 20 days prior to the meeting. At least 10% of the registered voters residing in the village shall constitute a quorum for purposes of taking action to exceed the limits. If a majority of the registered voters present at the meeting vote in favor of exceeding the limits, a copy of the record of that action shall be forwarded to the County Board prior to October 10 and the County Board shall authorize a levy as approved by the residents for the year. If a majority of the registered voters present at the meeting vote against exceeding the limits, the limit shall not be exceeded and the village shall have no power to call for an election under this division (C).

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

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

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1. By passing a resolution calling for the rescission or modification by a vote of at least 2/3 of the members of the Board of Trustees and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the village; or

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

(c) The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either the excess levy authority will be rescinded or the excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of the modification shall be stated. The modification shall not have a duration greater than 5 years. The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition, and the time of publication and providing a copy of the notice of election required in Neb. RS 32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act. (Neb. RS 77-3444) (Ord. 2000-7.5, passed 7-10-2000)

Statutory Reference:

Similar Provisions, See Neb. RS 77-3442 through 77-3444

§ 34.62 PROPERTY TAX; CERTIFICATION OF AMOUNT.

The Board of Trustees shall, at the time and in the manner provided by law, cause to be certified to the County Clerk the amount of tax to be levied upon the taxable value of all the taxable property of the municipality which the municipality requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. Subject to Neb. RS 77-3442, the maximum amount of tax which may be so certified, assessed, and collected shall not require a tax levy in excess of the amounts specified in Neb. RS 17-702.

(Neb. RS 17-702) (Ord. 1999-7.19, passed 7-12-1999)

§ 34.63 PROPERTY TAX LEVY AND REQUEST; AUTHORITY TO SET.

(A) (1) The property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization in Neb. RS 77-1601 unless the Board of Trustees passes by a majority vote a resolution or ordinance setting the tax request at a different amount.

(2) The resolution or ordinance shall only be passed after a special public hearing called for the purpose is held and after notice is published in a newspaper of general circulation in the area of the municipality at least 5 days prior to the hearing.

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

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

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

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

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

(C) Any tax levy which is not in compliance with this section and Neb. RS 77-1601 shall be construed as an unauthorized levy under Neb. RS 77-1606.
(Neb. RS 77-1601.02) (Ord. 2000-7.4, passed 7-10-2000)

Statutory Reference:

Similar Provisions, See Neb. RS 77-1601.02

§ 34.64 MOTOR VEHICLE TAX.

The Board of Trustees may levy a tax on all motor vehicles owned or used in the village, which tax shall be paid to the County Treasurer of the county in which the village is located when the registration fees as provided in Neb. RS 60-329 through 60-339 are paid. The taxes shall be credited by the County Treasurer to the road fund of the village. The funds shall be used by the village for constructing, resurfacing, maintaining, or improving streets, roads alleys, public ways, or parts thereof or for the amortization of bonded indebtedness when created for the purposes.
(Neb. RS 18-1214) (1994 Code, § 1-824)

CHAPTER 35: SALES AND USE TAX

Sections:

- 35.01 Sales and Use Tax Imposed
- 35.02 Administration of Tax
- 35.03 Effective Date
- 35.04 Deposit of Proceeds
- 35.05 Governing Provisions; Nebraska Revenue Act of 1967
- 35.06 Certified Map to Tax Commissioner
- 35.07 Certification to Tax Commissioner
- 35.08 Collection of Tax

§ 35.01 SALES AND USE TAX IMPOSED.

The voters of the Village of Bennet have approved the imposition of a sales and use tax at the primary election held within the Village on May 9, 2006. Now, pursuant to the Local Option Revenue Act (Neb. Rev. Stat. § 77-27, 142 *et seq.*), the Village of Bennet hereby imposes a sales and use tax of one percent (1%) upon the same transactions within the corporate limits of the Village of Bennet on which the State of Nebraska is authorized to impose a tax pursuant to the provisions of the Nebraska Revenue Act of 1967, as amended from time to time.
(Neb. RS 77-27,142) (Ord. No. 2006-5.6 § 1, passed 5-15-2006)

§ 35.02 ADMINISTRATION OF TAX.

The administration of the sales and use tax imposed by this Ordinance shall be by the Tax Commissioner in accordance with the Local Option Revenue Act (Neb. Rev. Stat. § 77-27, 142 *et seq.*).
(Neb. RS 77-27,143) (Ord. No. 2006-5.6 § 2, passed 5-15-2006)

§ 35.03 EFFECTIVE DATE.

The sales and use tax imposed by section 35.01 of this Chapter shall become effective on October 1, 2006.
(Neb. RS 77-27,143) (Ord. No. 2006-5.6 § 3, passed 5-15-2006)

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§ 35.04 DEPOSIT OF PROCEEDS.

Proceeds of the tax levied by the Village of Bennet under the provisions of Section 35.01 shall be deposited by the Village upon receipt thereof in its general fund.
(Neb. RS 77-27,146) (Ord. No. 2006-5.6 § 4, passed 5-15-2006)

§ 35.05 GOVERNING PROVISIONS; NEBRASKA REVENUE ACT OF 1967.

All relevant portions of the Nebraska Revenue Act of 1967, as amended from time to time, and not inconsistent with the provisions of the Local Option Revenue Act and this Chapter shall govern transactions, proceedings, and activities pursuant to any tax imposed under the provisions of the Local Option Revenue Act and this Chapter.
(Neb. RS 77-27,147) (Ord. No. 2006-5.6 § 5, passed 5-15-2006)

§ 35.06 CERTIFIED MAP TO TAX COMMISSIONER.

The Village Clerk shall deliver, or cause to be delivered, to the Tax Commissioner of the State of Nebraska a certified map of the Village of Bennet, clearly showing the boundaries thereof upon the passage of this Chapter and shall thereafter, from time to time, deliver, or cause to be delivered, to the Tax Commissioner of the State of Nebraska a certified map of the Village of Bennet showing any additional areas which may become a part of the Village of Bennet after the effective date of this Chapter.
(Neb. RS 77-27,143) (Ord. No. 2006-5.6 § 6, passed 5-15-2006)

§ 35.07 CERTIFICATION TO TAX COMMISSIONER.

The Village Clerk of the Village of Bennet shall deliver a certified copy of this Ordinance and any amendments or changes thereto to the Tax Commissioner in accordance with such rules and regulations as the Tax Commissioner may prescribe.
(Neb. RS 77-27,143) (Ord. No. 2006-5.6 § 7, passed 5-15-2006)

§ 35.08 COLLECTION OF TAX.

Pursuant to the provisions of the Local Option Revenue Act, the State Tax Commissioner shall collect the tax imposed by Section 35.01 concurrently with collection of a state tax in the same manner as the state tax is collected. The Tax Commissioner shall remit the monthly proceeds of the tax to the Village of Bennet after deducting the amount of refunds made and three percent (3%) of the remainder to be credited to the Municipal Equalization Fund, or such other use as may be directed by state law.
(Neb. RS 77-27,144) (Ord. No. 2006-5.6 § 8, passed 5-15-2006)