

CHAPTER 30: ELECTED OFFICIALS; ORDINANCES

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BOARD OF TRUSTEES

§ 30.01 ELECTION; TERMS; QUALIFICATIONS.

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

(Neb. RS 17-202)

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

(Neb. RS 32-532)

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

(Neb. RS 17-203)

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

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

(Neb. RS 32-602)

Statutory reference:

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

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

Election Act, see Neb. RS 32-101

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

§ 30.02 GENERAL POWERS.

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

(Neb. RS 18-1720)

§ 30.03 OATH; ORGANIZATION; CHAIRPERSON.

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

(Neb. RS 17-204)

Statutory reference:

Oath, see Neb. RS 11-101

§ 30.04 CHAIRPERSON; POWERS AND DUTIES; ABSENCE.

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

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

(Neb. RS 17-210)

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

§ 30.05 STANDING COMMITTEES.

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

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

§ 30.06 VACANCY; GENERAL PROVISIONS.

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

(B) (1) Except as otherwise provided in division (C) or (D), vacancies in village elected offices shall be filled by the Board of Trustees for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the Board at a regular or special meeting and shall appear as a part of the minutes of that meeting. The Board shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the village or by posting in 3 public places in the village the office vacated and the length of the unexpired term.

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

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

(D) If vacancies exist in the offices of a majority of the members of the Board of Trustees, the Secretary of State shall conduct a special village election to fill those vacancies. (Neb. RS 32-569)

Statutory reference:

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

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

§ 30.07 VACANCY DUE TO UNEXCUSED ABSENCES.

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

(Neb. RS 19-3101)

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

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

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

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

ORDINANCES, RESOLUTIONS, AND MOTIONS**§ 30.35 GRANT OF POWER.**

(A) The Board of Trustees shall have power to pass ordinances to prevent and remove nuisances; to restrain and prohibit gambling; to provide for licensing and regulating theatrical and other amusements within such village; to prevent the introduction and spread of contagious diseases; to establish and regulate markets; to erect and repair bridges; to erect, repair, and regulate wharves and the rates of wharfage; to regulate the landing of watercraft; to provide for the inspection of building materials to be used or offered for sale in such village; to govern the planting and protection of shade trees in the streets and the building of structures projecting upon or over and adjoining, and all excavations through and under, the sidewalks of such village; and in addition to the special powers herein conferred and granted, to maintain the peace, good government, and welfare of the village and its trade, commerce, and manufactories, and to enforce all ordinances by inflicting penalties upon inhabitants or other persons, for the violation thereof, not exceeding \$500 for any one offense, recoverable with costs. Nothing in this division shall be construed to apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act.
(Neb. RS 17-207)

(B) In addition to its special powers, the village shall have the power to make all ordinances, bylaws, rules, regulations, and resolutions, not inconsistent with the laws of the state, as may be expedient for maintaining the peace, good government, and welfare of the

village and its trade, commerce, and manufactories, and to enforce all ordinances by inflicting fines or penalties for the breach thereof, not exceeding \$500 for any one offense, recoverable with costs.

(Neb. RS 17-505)

Statutory reference:

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

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

§ 30.36 PROCEDURE FOR RESOLUTIONS AND MOTIONS.

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

§ 30.37 INTRODUCTION OF ORDINANCES.

Unless the Board of Trustees has specified other procedures, ordinances shall be introduced by members of the Board of Trustees in 1 of the following ways:

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

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

§ 30.38 ORDINANCES; STYLE, TITLE.

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

(Neb. RS 17-613)

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

(Neb. RS 17-614)

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

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

(Neb. RS 17-614)

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

(Neb. RS 17-616)

§ 30.40 PUBLICATION OR POSTING.

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

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

(B) In book or pamphlet form.

(Neb. RS 17-613)

Statutory reference:

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

Additional provisions, see Neb. RS 18-131

§ 30.41 CERTIFICATE OF PUBLICATION OR POSTING.

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

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

(Neb. RS 17-613)

Statutory reference:

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

§ 30.42 EFFECTIVE DATE; EMERGENCY ORDINANCES.

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

(Neb. RS 19-3701)

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

(Neb. RS 17-613)

§ 30.43 AMENDMENTS AND REVISIONS.

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

(Neb. RS 17-614)

Statutory reference:

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

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