

CHAPTER 34: ELECTIONS

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Statutory reference:

Election Act, see Neb. RS 32-101

§ 34.01 GENERALLY.

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

(Neb. RS 32-556)

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

(Neb. RS 32-404)

§ 34.02 NOTICE.

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

§ 34.03 REGISTERED VOTERS; QUALIFICATIONS.

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

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

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

(Neb. RS 17-602)

Statutory reference:

Definition of elector, see Neb. RS 32-110

§ 34.04 SPECIAL ELECTIONS.

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

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

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

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

(Neb. RS 32-559)

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

(Neb. RS 32-405)

§ 34.05 ELECTION OF OFFICERS; CERTIFICATION.

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

(Neb. RS 32-404)

§ 34.06 PARTISAN BALLOT; WHEN ALLOWED; REQUIREMENTS.

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

(Neb. RS 32-557)

§ 34.07 CANDIDATE FILING FORMS; DEADLINES; FILING OFFICER.

(A) Any candidate for the Board of Trustees may place his or her name on the general election ballot by filing a candidate filing form prescribed by the Secretary of State as provided in division (B). If a candidate is an incumbent, the deadline for filing the candidate filing form shall be July 15 prior to the date of the general election. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after July 15 of that election year. All other candidates shall file for office by August 1 prior to the date of the general election.

(Neb. RS 32-606)

(B) Candidate filing forms shall be filed in the office of the Village Clerk, except that in the case of joint elections, the filing may be either in the office of the Election Commissioner or County Clerk or in the office of the Village Clerk with deputized personnel. When the Village Clerk is deputized to take filings, he or she shall return all filings to the office of the Election Commissioner or County Clerk by the end of the next business day following the filing deadline.

(Neb. RS 32-607)

Statutory reference:

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

Withdrawal after filing, see Neb. RS 32-622

§ 34.08 FILING FEE.

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

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

(C) All declared write-in candidates shall pay the filing fees that are required for the office at the time that they present the write-in affidavit to the filing officer. Any undeclared write-in candidate who is nominated or elected by write-in votes shall pay the filing fee required for the office within 10 days after the canvass of votes by the county canvassing board and shall file the receipt with the person issuing the certificate of nomination or the certificate of election prior to the certificate being issued.

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

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

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

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

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

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

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

§ 34.09 CAUCUS CANDIDATES.

(A) The Board of Trustees may, by ordinance, call a caucus for the purpose of nomination of candidates for offices to be filled in the village election. This caucus shall be held at least 10 days before the filing deadline for that election, and the Board of Trustees shall publish notice of the caucus in at least 1 newspaper of general circulation in the county at least once each week for 2 consecutive weeks before the caucus.
(Neb. RS 17-601.01)

(B) The chairperson of the caucus at which candidates are nominated shall notify in writing the Village Clerk of the candidates so nominated, not later than 2 days following the caucus. The Village Clerk shall then notify the persons so nominated of their nomination, this notification to take place not later than 5 days after the caucus. No candidate so nominated shall have his or her name placed upon the ballot unless, not more than 10 days after the holding of the caucus, he or she files with the Village Clerk a written statement accepting the nomination of the caucus and pays the filing fee, if any, for the office for which he or she was nominated.
(Neb. RS 17-601.02)

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

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

(A) (1) Any registered voter who was not a candidate in the primary election may have

his or her name placed on the general election ballot for a partisan office by filing petitions as prescribed in divisions (B) and (C) of this section and Neb. RS 32-621 or by nomination by political party convention or committee.

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

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

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

(2) The number of signatures of registered voters needed to place the name of a candidate upon the partisan ballot for the general election shall be at least 20% of the total vote for Governor or President of the United States at the immediately preceding general election within the village or in the ward in which the officer is to be elected, as appropriate, not to exceed 2,000.
(Neb. RS 32-618)

§ 34.11 RECALL PROCEDURE.

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

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

(B) Any member of the Board of Trustees may be removed from office by recall

pursuant to this section.
(Neb. RS 32-1302)

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

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

(3) The petition papers shall be procured from the filing clerk. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the filing clerk by at least 1 registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The affidavit shall state the name and office of the Trustee sought to be removed, shall include in typewritten form in concise language of 60 words or less the reason or reasons for which recall is sought, and shall request that the filing clerk issue initial petition papers to the principal circulator for circulation. The filing clerk shall notify the Trustee by any method specified in Neb. RS 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in Neb. RS 25-505.01, by leaving a copy of the affidavit at the Trustee's usual place of residence and mailing a copy by first-class mail to the Trustee's last-known address. If the Trustee chooses, he or she may submit a defense statement in typewritten form in concise language of 60 words or less for inclusion on the petition. Any such defense statement shall be submitted to the filing clerk within 20 days after the Trustee receives the copy of the affidavit. The filing clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within 30 days from the date of issuing the petitions.

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

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

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

(E) (1) The principal circulator or circulators shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the filing clerk within 30

days after the filing clerk issues the initial petition papers to the principal circulator or circulators as provided in division (C) of this section.

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

(Neb. RS 32-1305)

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

(2) If the Trustee does not resign within 5 days after receiving the notice, the Board shall order an election to be held not less than 30 nor more than 45 days after the expiration of the 5-day period, except that if any other election is to be held in the village within 90 days of the expiration of the 5-day period, the Board shall provide for the holding of the removal election on the same day. After the Board sets the date for the recall election, the recall election shall be held regardless of whether the Trustee resigns before the recall election is held.

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

(Neb. RS 32-1306)

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

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

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

provided in this section and Neb. RS 32-567 to 32-570.

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

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

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

(Neb. RS 32-1308)

(I) No recall petition shall be filed against an elected Trustee within 12 months after a recall election has failed to remove him or her from office or within 6 months after the beginning of his or her term of office or within 6 months prior to the incumbent filing deadline for the office.

(Neb. RS 32-1309)

§ 34.12 EXIT POLLS.

No person shall conduct an exit poll, a public opinion poll, or any other interview with voters on election day seeking to determine voter preference within 20 feet of the entrance of any polling place, or, if inside the polling place or building, within 100 feet of any voting booth.

(Neb. RS 32-1525) Penalty, see § 10.99

