

CHAPTER 35: FINANCE AND REVENUE

Section

General Provisions

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

Annual Budget

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

Tax Levies

- 35.45 Property tax levy for general revenue purposes
- 35.46 Levies for other taxes and special assessments
- 35.47 All-purpose levy; extraordinary levies; allocation; abandonment

Villages - Administration

- 35.48 Property tax levy; maximum; authority to exceed
- 35.49 Property tax levy; certification of amount; collection
- 35.50 Property tax request; procedure for setting
- 35.51 Motor vehicle tax

GENERAL PROVISIONS

§ 35.01 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 non-tax money, used in the operation and functions of governing bodies. If the village has a lottery established under the Nebraska County and Village Lottery Act, only those net proceeds which are actually received by the village from a licensed lottery operator shall be considered **PUBLIC FUNDS**, and **PUBLIC FUNDS** shall not include amounts awarded as prizes.

(Neb. RS 13-503)

§ 35.02 ANNUAL AUDIT; FINANCIAL STATEMENTS.

(A) (1) For the purpose of this division (A), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCOUNTANT. A duly licensed public accountant or certified public accountant who otherwise is not an employee of or connected in any way with the village.

ANNUAL AUDIT REPORT. The written report of the accountant and all appended statements and schedules relating thereto presenting or recording the findings of an examination or audit of the financial transactions, affairs, or financial condition of the village and its proprietary functions for the fiscal year immediately prior to the making of the annual report.

FISCAL YEAR. The fiscal year for the village or the fiscal year established in Neb. RS 18-2804 for a proprietary function if different than the village fiscal year.
(Neb. RS 19-2902)

(2) The Board of Trustees shall cause an audit of the village's accounts to be made by a recognized independent and qualified accountant as expeditiously as possible following the close of the fiscal year and to cover all financial transactions and affairs of the village for that preceding fiscal year. The audit shall be made on a cash or accrual method at the discretion of the Board of Trustees. The audit shall be completed and the annual audit report

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

(Neb. RS 19-2903)

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

(Neb. RS 19-2904)

(4) At least 3 copies of such annual audit report shall be properly signed and attested by the accountant; 2 copies shall be filed with the Village Clerk, and 1 copy shall be filed with the Auditor of Public Accounts. The annual audit report filed, together with any accompanying comment or explanation, shall become a part of the public records of the Village Clerk and shall at all times thereafter be open and subject to public inspection.

(Neb. RS 19-2905)

(B) The Board of Trustees shall provide and file with the Village Clerk, not later than August 1 of each year, financial statements showing the village's actual and budgeted figures for the most recently completed fiscal year.

(Neb. RS 13-606)

Statutory reference:

Other provisions on audits, Neb. RS 19-2906 through 19-2909.

§ 35.03 CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS.

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

Villages - Administration

(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) A village electric utility may enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for the enlargement or improvement without advertising for bids if the price is:

(1) \$20,000 or less;

(2) \$40,000 or less and the village electric utility has gross annual revenue from retail sales in excess of \$1,000,000;

(3) \$60,000 or less and the village electric utility has gross annual revenue from retail sales in excess of \$5,000,000; or

(4) \$80,000 or less and the village electric utility has gross annual revenue from retail sales in excess of \$10,000,000.

(E) The advertisement provided for in division (C) of this section shall be published at least 7 days prior to the bid closing in a legal newspaper published in or of general circulation in the village, and if there is no legal newspaper published in or of general circulation in the village, then in some newspaper of general circulation published in the county in which the village is located, and if there is no legal newspaper of general circulation published in the county in which the village is located, then in a newspaper, designated by the County Board, having a general circulation within the county where bids are required, and if no newspaper is published in the village or county, or if no newspaper has general circulation in the county, then by posting a written or printed copy thereof in each of 3 public places in the village at least 7 days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of or serious injury or damage to life, health, or

property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by Neb. RS 17-613 when adopted by a 3/4 vote of the Board of Trustees and entered of record.

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

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

(H) Any village bidding procedure may be waived by the Board of Trustees:

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

(2) When the contract is negotiated directly with a sheltered workshop pursuant to Neb. RS 48-1503. (Neb. RS 17-568.02)

(I) (1) Notwithstanding any other provisions of law or a home rule charter, a village which has established, by an interlocal agreement with any county, a joint purchasing division or agency may purchase personal property without competitive bidding if the price for the property has been established by the federal General Services Administration or the materiel division of the Department of Administrative Services.

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

PERSONAL PROPERTY. Includes but is not limited to supplies, materials, and equipment used by or furnished to any officer, office, department, institution, board, or other agency.

PURCHASING or PURCHASE. The obtaining of personal property by sale, lease, or other contractual means.

(Neb. RS 18-1756)

Statutory reference:

Requirements for public lettings, see Neb. RS 73-101 et seq.

§ 35.04 ORDERS OR WARRANTS FOR MONEY; CONTRACTS; EXPENDITURES; REQUIREMENTS.

(A) The Board of Trustees shall have no power to appropriate, issue, or draw any order or warrant on the Village Treasurer for money, unless the same has been appropriated or ordered by ordinance, or the claim for the payment of which such order or warrant is issued has been allowed according to the provisions of § 35.05, and funds for the class or object out of which such claim is payable have been included in the adopted budget statement or transferred according to law.

(Neb. RS 17-708)

(B) No contract shall be hereafter made by the Board of Trustees, or any committee or member thereof, and no expense shall be incurred by any of the officers or departments of the village, whether the object of the expenditures shall have been ordered by the Board of Trustees or not, unless an appropriation shall have been previously made concerning such expense, except as otherwise expressly provided in division (A).

(Neb. 17-709)

(C) All warrants drawn upon the Village Treasurer must be signed by the Chairperson and countersigned by the Village Clerk, stating the particular fund to which the same is chargeable, the person to whom payable, and for what particular object. No money shall be otherwise paid than upon such warrants so drawn. Each warrant shall specify the amount included in the adopted budget statement for such fund upon which it is drawn and the amount already expended of such fund.

(Neb. 17-711)

§ 35.05 CLAIMS AND ACCOUNTS PAYABLE.

(A) (1) All liquidated and unliquidated claims and accounts payable against the village shall:

(a) Be presented in writing;

(b) State the name and address of the claimant and the amount of the claim;

and

(c) Fully and accurately identify the items or services for which payment is claimed or the time, place, nature, and circumstances giving rise to the claim.

(2) As a condition precedent to maintaining an action for a claim, other than a tort claim as defined in Neb. RS 13-903, the claimant shall file such claim within 90 days of the accrual of the claim in the office of the Village Clerk.

(3) The Village Clerk shall notify the claimant or his or her agent or attorney by

letter mailed to the claimant's address within 5 days if the claim is disallowed by the Board of Trustees.

(4) No costs shall be recovered against the village in any action brought against it for any claim or for any claim allowed in part which has not been presented to the Board of Trustees to be audited, unless the recovery is for a greater sum than the amount allowed with the interest due.

(Neb. RS 17-714)

(B) Upon the allowance of claims by the Board of Trustees, the order for their payment shall specify the particular fund or appropriation out of which they are payable as specified in the adopted budget statement; and no order or warrant shall be drawn in excess of 85% of the current levy for the purpose for which it is drawn, unless there is sufficient money in the treasury at the credit of the proper fund for its payment; provided that if there exists at the time such warrant is drawn, obligated funds from the federal government or the state, or both from the federal government and the state, for the general purpose or purposes of such warrant, then such warrant may be drawn in excess of 85% of the current levy for the purpose for which it is drawn to the additional extent of 100% of such obligated federal or state funds. No claim shall be audited or allowed unless an order or warrant for the payment thereof may legally be drawn.

(Neb. RS 17-715)

§ 35.06 COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE.

(A) The village shall have authority to collect the special assessments which it levies and to perform all other necessary functions related thereto including foreclosure.

(B) The Board of Trustees of any village collecting its own special assessments shall direct that notice that special assessments are due shall be mailed or otherwise delivered to the last known address of the person against whom those special assessments are assessed or to the lending institution or other party responsible for paying those special assessments. Failure to receive the notice shall not relieve the taxpayer from any liability to pay the special assessments and any interest or penalties accrued thereon.

(C) A village collecting its own assessments shall:

(1) File notice of the assessments and the amount of assessment being levied for each lot or tract of land to the Register of Deeds; and

(2) File a release of assessment upon final payment of each assessment with the Register of Deeds.

(Neb. RS 18-1216)

Statutory reference:

Refunding erroneously paid special assessments, see Neb. RS 17-703

§ 35.07 SPECIAL ASSESSMENT FUND.

All money received on special assessments shall be held by the Village Treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made, and this money shall be used for no other purpose whatever, unless to reimburse the village for money expended for any such improvement.

(Neb. RS 17-710)

§ 35.08 SINKING FUNDS; GIFTS OF MONEY OR PROPERTY.

(A) The village is hereby empowered to receive money or property by donation, bequest, gift, devise, or otherwise for the benefit of any one or more of the public purposes for which sinking funds are established by the provisions of this section, as stipulated by the donor. The title to the money or property so donated shall vest in the Board of Trustees, or in its successors in office, who shall become the owners thereof in trust to the uses of the sinking fund or funds; provided, if the donation is real estate, the Board of Trustees may manage the same as in the case of real estate donated to the village for village library purposes under the provisions of Neb. RS 51-215 and 51-216.

(Neb. RS 19-1301)

(B) The Board of Trustees, subject to all the limitations set forth in this section, shall have the power to levy a tax of not to exceed \$0.105 on each \$100 in any one year upon the taxable value of all the taxable property within the village for a term of not to exceed 10 years, in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the village, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, original equipment, or repair, not including maintenance, of any one or more of the following public improvements, including acquisition of any land incident to the making thereof: Village library; village auditorium or community house for social or recreational purposes; village hall; village public library, auditorium, or community house in a single building; village swimming pool and appurtenances thereto; village jail; village building to house equipment or personnel of a fire department, together with firefighting equipment or apparatus; village park; village cemetery; village medical clinic building, together with furnishings and equipment; or village hospital. The village shall not be authorized to levy the tax or to establish the sinking fund as provided in this division if, having bonded indebtedness, such village has been in default in the payment of interest thereon or principal thereof for a period of 10 years prior to the date of the passage of the resolution providing for the submission of the proposition for establishment of the sinking fund as required in division (C).

(Neb. RS 19-1302)

(C) Before any sinking fund or funds are established or before any annual tax is levied for any such planned village improvement mentioned in division (B) by the village, the Board of Trustees shall declare its purpose by resolution to submit to the qualified electors of the village at the next general village election the proposition to provide the village with the specific village improvement planned for consummation under this section. The

resolution of submission shall, among other things, set forth a clear description of the improvement planned, the estimated cost according to the prevailing costs, the amount of annual levy over a definite period of years, not exceeding 10 years, required to provide such cost, and the specific name or designation for the sinking fund sought to be established to carry out the planned improvement, together with a statement of the proposition for placement upon the ballot at the election. Notice of the submission of the proposition, together with a copy of the official ballot containing the same, shall be published in its entirety 3 successive weeks before the day of the election in a legal newspaper published in the village or, if no legal newspaper is published therein, in some legal newspaper published in the county in which the village is located and of general circulation. If no legal newspaper is published in the county, such notice shall be published in some legal newspaper of general circulation in the county in which the village is located. No such sinking fund shall be established unless the same has been authorized by a majority or more of the legal votes of the village cast for or against the proposition. If less than a majority of the legal votes favor the establishment of the sinking fund, the planned improvement shall not be made, no annual tax shall be levied therefor, and no sinking fund or sinking funds shall be established in connection therewith, but such resolution of submission shall immediately be repealed. If the proposition shall carry at such election in the manner prescribed in this division, the Board of Trustees and its successors in office shall proceed to do all things authorized under such resolution of submission but never inconsistent with this section. Provisions of the statutes of this state relating to election of officers, voting places, election apparatus and blanks, preparation and form of ballots, information to voters, delivery of ballots, conduct of elections, manner of voting, counting of votes, records and certificates of elections, and recounts of votes, so far as applicable, shall apply to voting on the proposition under this section.

(Neb. RS 19-1303)

(D) All funds received by the Village Treasurer, by donation or by tax levy, as hereinbefore provided, shall, as they accumulate, be immediately invested by the Treasurer, with the written approval of the Board of Trustees, in the manner provided in § 35.11. Whenever investments of such sinking fund or funds are made, as aforesaid, the nature and character of the same shall be reported to the Board of Trustees, and the investment report shall be made a matter of record by the Village Clerk in the proceedings of the Village Board. The sinking fund, or sinking funds, accumulated under the provisions of this section, shall constitute a special fund, or funds, for the purpose or purposes for which the same was authorized and shall not be used for any other purpose unless authorized by 60% of the qualified electors of the village voting at a general election favoring such change in the use of the sinking fund or sinking funds; provided that the question of the change in the use of the sinking fund or sinking funds, when it fails to carry, shall not be resubmitted in substance for a period of 1 year from and after the date of such election.

(Neb. RS 19-1304)

Statutory reference:

Additional levy limitations, see Neb. RS 17-702

§ 35.09 DEPOSIT OF FUNDS.

(A) (1) The Village Treasurer shall deposit, and at all times keep on deposit, for safekeeping, in banks, capital stock financial institutions, or qualifying mutual financial institutions of approved and responsible standing, all money collected, received, or held by him or her as Village Treasurer. These deposits shall be subject to all regulations imposed by law or adopted by the Board of Trustees for the receiving and holding thereof. The fact that a stockholder, director, or other officer of the bank, capital stock financial institution, or qualifying mutual financial institution is also serving as a member of the Board of Trustees or as any other officer of the village shall not disqualify the bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for the village funds.

(2) The Board of Trustees shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or, in lieu thereof, security given as provided in the Public Funds Deposit Security Act, to secure the payment of all such deposits and accretions. The Board of Trustees shall approve this bond or giving of security. The Village Treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved.
(Neb. RS 17-607)

(B) The insurance afforded to depositors in banks, capital stock financial institutions, or qualifying mutual financial institutions through the Federal Deposit Insurance Corporation shall be deemed and construed to be a surety bond or bonds to the extent that the deposits are insured by that corporation, and for deposits so insured, no other surety bond or bonds or other security shall be required.
(Neb. RS 77-2362)

(C) Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions. Neb. RS 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.
(Neb. RS 17-607 and 77-2362)

Statutory reference:

*Other provisions on deposits of public funds, see Neb. RS 77-2363 and 77-2364
Public Funds Deposit Security Act, see Neb. RS 77-2386*

§ 35.10 CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS.

The Village Treasurer may, upon resolution of the Board of Trustees authorizing the same, purchase certificates of deposit from and make time deposits in any bank, capital stock financial institution, or qualifying mutual financial institution in the state to the extent that those certificates of deposit or time deposits are insured by the Federal Deposit Insurance Corporation. Deposits may be made in excess of the amounts so secured by the corporation, and the amount of the excess deposit shall be secured by a bond or by security given in the

same manner as is provided for cities of the first class in Neb. RS 16-714 through 16-716 as of the time the deposit is made. Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions. Neb. RS 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

(Neb. RS 17-720)

§ 35.11 INVESTMENT AND USE OF SURPLUS FUNDS.

(A) When the Village Treasurer holds funds of the village in excess of the amount required for maintenance or set aside for betterments and improvements, the Board of Trustees may, by resolution, direct and authorize the Treasurer to invest the surplus funds in the outstanding bonds or registered warrants of the village, bonds and debentures issued either singly or collectively by any of the 12 federal land banks, the 12 intermediate credit banks, or the 13 banks for cooperatives under the supervision of the Farm Credit Administration, or in interest-bearing bonds or the obligations of the United States. The interest on such bonds or warrants shall be credited to the fund out of which the bonds or warrants were purchased.

(Neb. RS 17-608)

(B) All income received by the village from public utilities and from the payment and collection of water taxes, rents, rates or assessments shall be applied to the payment of running expenses, interest on bonds or money borrowed and the erection and construction of public utilities; should there be any surplus, it shall be annually created into a sinking fund for the payment of public utility bonds or for the improvements of the works, or into the general fund as the Board may direct. The surplus remaining, if any, may, if the Board, be invested in interest-bearing bonds or obligations of the United States.

(Neb. RS 17-540)

(C) The Board of Trustees may, by resolution, direct and authorize the Treasurer to dispose of the surplus electric light, water, or gas funds, or the funds arising from the sale of electric light, water, or natural gas distribution properties, by the payment of outstanding electric light, water, or gas distribution bonds or water warrants then due. The excess, if any, after such payments, may be transferred to the general fund of the village.

(Neb. RS 17-609)

(D) (1) Whenever the village has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the Board of Trustees may invest any such surplus in excess of current needs or such excess in its sinking fund in certificates of deposit, in time deposits, and in any securities in which the State Investment Officer is authorized to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. The State

Investment Officer shall upon request furnish a copy of current authorized investment guidelines of the Nebraska Investment Council.

(2) Nothing in division (D)(1) shall be construed to authorize investments in venture capital.

(Neb. RS 77-2341)

§ 35.12 BOND ISSUES.

The Board of Trustees may, after meeting all the requirements of state law, issue bonds, fund bonds, and retire bonds for such purposes as may be permitted by state law. The Board of Trustees shall have the authority to levy special assessments for the payment of interest and principal on these bonds and may spread the payments up to the maximum number of years permitted by state law.

Statutory reference:

Bonds in general, see Neb. RS 18-1801 through 18-1805

General provisions, see Neb. RS 10-101 through 10-143

§ 35.13 DEBT COLLECTION; AUTHORITY TO CONTRACT WITH COLLECTION AGENCY.

(A) The village may contract to retain a collection agency licensed pursuant to Neb. RS 45-601 through 45-622, within or without this state, for the purpose of collecting public debts owed by any person to the village.

(B) No debt owed pursuant to division (A) of this section may be assigned to a collection agency unless:

(1) There has been an attempt to advise the debtor by first-class mail, postage prepaid, at the last known address of the debtor:

(a) Of the existence of the debt; and

(b) That the debt may be assigned to a collection agency for collection if the debt is not paid; and

(2) At least 30 days have elapsed from the time the notice was sent.

(C) A collection agency which is assigned a debt under this section shall have only those remedies and powers which would be available to it as an assignee of a private creditor.

(D) For purposes of this section, debt shall include all delinquent fees or payments except delinquent property taxes on real estate. In the case of debt arising as a result of an order or judgment of a court in a criminal or traffic matter, a collection fee may be added to the debt. The collection fee shall be \$25 or 4.5% of the debt, whichever is greater. The collection fee shall be paid by the person who owes the debt directly to the person or agency providing the collection service.

(Neb. RS 45-623)

§ 35.14 CREDIT CARDS; AUTHORITY TO ACCEPT.

(A) If authorized by the Board of Trustees, any village official may accept credit cards, charge cards, or debit cards, whether presented in person or electronically, or electronic funds transfers as a method of cash payment of any tax, levy, excise, duty, custom, toll, interest, penalty, fine, license, fee, or assessment of whatever kind or nature, whether general or special, as provided by Neb. RS 77-1702.

(B) The total amount of the taxes, levies, excises, duties, customs, tolls, interest, penalties, fines, licenses, fees, or assessments of whatever kind or nature, whether general or special, paid for by credit card, charge card, debit card, or electronic funds transfer shall be collected by the village official.

(C) With respect to a facility which it operates in a proprietary capacity, the Board of Trustees may choose to accept credit cards, charge cards, or debit cards, whether presented in person or electronically, or electronic funds transfers as a means of cash payment and may adjust the price for services to reflect the handling and payment costs.

(D) The village official shall obtain, for each transaction, authorization for use of any credit card, charge card, or debit card used pursuant to this section from the financial institution, vending service company, credit card or charge card company, or third-party merchant bank providing that service.

(E) The types of credit cards, charge cards, or debit cards accepted and the payment services provided shall be determined by the State Treasurer and the Director of Administrative Services with the advice of a committee convened by the State Treasurer and the director. The committee shall consist of the State Treasurer, the Tax Commissioner, the director, and representatives from counties, cities, and other political subdivisions as may be appropriate. The committee shall develop recommendations for the contracting of such services. The State Treasurer and the director shall contract with one or more credit card, charge card, or debit card companies or third-party merchant banks for services on behalf of the state and those counties, cities, and political subdivisions that choose to participate in the state contract for such services. The State Treasurer and the director shall consider, for purposes of this section, any negotiated discount, processing, or transaction fee imposed by a credit card, charge card, or debit card company or third-party merchant bank as an

administrative expense. If the Board of Trustees chooses not to participate in the state contract, it may choose types of credit cards, charge cards, and debit cards and may negotiate and contract independently or collectively as a governmental entity with 1 or more financial institutions, vending service companies, credit card, charge card, or debit card companies, or third-party merchant banks for the provision of these services.

(F) Subject to the direction of the Board of Trustees, a village official authorizing acceptance of credit card or charge card payments shall be authorized but not required to impose a surcharge or convenience fee upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to the village, but the surcharge or convenience fee shall not exceed the surcharge or convenience fee imposed by the credit card or charge card companies or third-party merchant banks which have contracted under division (E) of this section. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to the village by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of the surcharge or convenience fee shall be deemed voluntary by that person and shall be in no case refundable. If a payment is made electronically by credit card, charge card, debit card, or electronic funds transfer as part of a system for providing or retrieving information electronically, the village official shall be authorized but not required to impose an additional surcharge or convenience fee upon the person making a payment.

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

ELECTRONIC FUNDS TRANSFER. The movement of funds by nonpaper means, usually through a payment system, including, but not limited to, an automated clearinghouse or the Federal Reserve's Fedwire system.

(Neb. RS 13-609)

ANNUAL BUDGET

§ 35.25 FISCAL YEAR.

The fiscal year of the village and any public utility of the village commences on October 1 and extends through the following September 30 except as provided in the Municipal Proprietary Function Act.

(Neb. RS 17-701)

§ 35.26 BUDGET PROCEDURES.

The budget instruction manual prepared by the Auditor of Public Accounts is incorporated by reference for the purpose of proper budget preparation.

§ 35.27 EXPENDITURES PRIOR TO ADOPTION OF BUDGET.

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

(Neb. RS 13-509.01)

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

(Neb. RS 13-509.02)

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

(A) The Board of Trustees shall annually prepare a proposed budget statement on forms prescribed and furnished by the Auditor of Public Accounts. The proposed budget statement shall be made available to the public prior to publication of the notice of the hearing on the proposed budget statement pursuant to § 35.29. A proposed budget statement shall contain the following information, except as provided by state law:

(1) For the immediately preceding fiscal year, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately stated as to each such source: the unencumbered cash balance at the beginning and end of the year; the amount received by taxation of personal and real property; and the amount of actual expenditures;

(2) For the current fiscal year, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds and separately stated as to each such

source: the actual unencumbered cash balance available at the beginning of the year; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. This 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;

(3) For the immediately ensuing fiscal year, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: the actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;

(4) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property:

(a) For the purpose of paying the principal or interest on bonds issued by the Board of Trustees; and

(b) For all other purposes.

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

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

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

(C) The village shall correct any material errors in the budget statement detected by the Auditor of Public Accounts or by other sources.

(Neb. RS 13-504)

(D) The estimated expenditures plus the required cash reserve for the ensuing fiscal year 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 that amount shall be shown on the proposed budget statement pursuant to this section. The amount to be

raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year.

(Neb. RS 13-505)

§ 35.29 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 hearing in a newspaper of general circulation within the village's jurisdiction.

(B) After the hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of the hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. The certification of the amount to be received from personal and real property taxation shall specify separately the amount to be applied to the payment of principal or interest on bonds issued by the Board of Trustees and the amount to be received for all other purposes.

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

(D) Upon approval by Board of Trustees, the budget shall be filed with the Auditor of Public Accounts. The Auditor may review the budget for errors in mathematics, improper accounting, and noncompliance with the provisions of the Nebraska Budget Act or Neb. RS 13-518 to 13-522. If the Auditor detects such errors, he or she shall immediately notify the Board of such errors. The Board shall correct any such error as provided in § 35.34. Warrants for the payment of expenditures provided in the budget adopted under this section shall be valid notwithstanding any errors or noncompliance for which the Auditor has notified the Board.

(Neb. RS 13-506)

(E) When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase.

(Neb. RS 13-507)

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

(A) (1) After publication and hearing on the proposed budget statement and within the time prescribed by law, the Board of Trustees shall file with and certify to the levying board or boards on or before September 20 of each year and file with the Auditor of Public Accounts a copy of the adopted budget statement which complies with Neb. RS 13-518 to 13-522, together with the amount of the tax required to fund the adopted budget, setting out separately:

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

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

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

(B) The Board of Trustees, in certifying the amount required, may make allowance for delinquent taxes not exceeding 5% of the amount required plus the actual percentage of delinquent taxes for the preceding tax year and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year which is still pending. Except for such allowances, the Board of Trustees shall not certify an amount of tax more than 1% greater or lesser than the amount determined under § 35.28.

(C) The Board of Trustees shall use the final adjusted values as provided by the County Assessor pursuant to Neb. RS 13-509 for the current year in setting or certifying the levy. The Board of Trustees may designate 1 of its members to perform any duty or responsibility required of the Board by this section.

(Neb. RS 13-508)

§ 35.31 APPROPRIATION BILL.

The Board of Trustees shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed, "The Annual Appropriation Bill," in which the Board may appropriate those sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the village.

(Neb. RS 17-706)

§ 35.32 GENERAL FUND.

If the village has not decided to follow the all-purpose levy method of financing for the fiscal year, all money not specifically appropriated in the annual appropriation bill shall be deposited in and known as the General Fund.

§ 35.33 TRANSFER OF FUNDS.

(A) Whenever during the current fiscal year it becomes apparent to the Board of Trustees that due to unforeseen emergencies there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the Board may by a majority vote, unless otherwise provided by state law, transfer money from other funds to such fund.

(B) No expenditure during any fiscal year shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized in § 35.34 or by state law.

(C) Any officer or officers of the Board who obligate funds contrary to the provisions of this section shall be guilty of an offense.
(Neb. RS 13-510) Penalty, see § 10.99

§ 35.34 REVISION OF BUDGET.

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

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

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

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

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

(1) The time and place of the hearing;

Villages - Administration

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

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

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

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

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

(D) Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the Board of Trustees, the Board shall file with the County Clerk of the county or counties in which the Board of Trustees is located, and with the Auditor of Public Accounts, a copy of the revised budget, as adopted. The Board of Trustees may then issue warrants in payment for expenditures authorized by the adopted revised budget. These warrants shall be referred to as registered warrants and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

(E) Within 30 days after the adoption of the budget under § 35.29, the Board of Trustees may, or within 30 days after notification of an error by the Auditor of Public Accounts, the Board shall correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than 1% or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the Board of Trustees shall file a copy of the corrected budget with the County Clerk of the county or counties in which the Board of Trustees is located and with the Auditor of Public Accounts. The Board of Trustees may then issue warrants in payment for expenditures authorized by the budget.

(Neb. RS 13-511)

§ 35.35 PROPRIETARY FUNCTIONS; FISCAL YEAR; BUDGET STATEMENTS; FILING; HEARING; ADOPTION; RECONCILIATION.

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

PROPRIETARY FUNCTION. A water supply or distribution utility, a wastewater collection or treatment utility, an electric generation, transmission, or distribution utility, a gas supply, transmission, or distribution utility, an integrated solid waste management collection, disposal, or handling utility, or a hospital or a nursing home owned by the village.

(Neb. RS 18-2803)

SUBSIDIZATION. The costs of operation of a proprietary function are regularly financed by appropriations from the village's general fund in excess of the amount paid by the village to the proprietary function for actual service or services received.

(Neb. RS 18-2804)

(B) The Board of Trustees may establish a separate fiscal year for each proprietary function, except that any proprietary function which is subsidized by appropriations from the village's general fund shall have the same fiscal year as the village.

(C) (1) At least 30 days prior to the start of the fiscal year of each proprietary function, a proposed proprietary budget statement shall be prepared in writing and filed with the Village Clerk containing the following information:

(a) For the immediately preceding fiscal year, the revenue from all sources, the unencumbered cash balance at the beginning and end of the year, the amount received by taxation, and the amount of actual expenditure;

(b) For the current fiscal year, actual and estimated revenue from all sources separately stated as to each such source, the actual unencumbered cash balance available at the beginning of the year, the amount received from taxation, and the amount of actual and estimated expenditure, whichever is applicable;

(c) For the immediately ensuing fiscal year, an estimate of revenue from all sources separately stated as to each such source, the actual or estimated unencumbered cash balance, whichever is applicable, to be available at the beginning of the year, the amounts proposed to be expended during the fiscal year, and the amount of cash reserve based on actual experience of prior years; and

(d) A uniform summary of the proposed budget statement which shall include a total of all funds maintained for the proprietary function.

(2) The statement shall contain the estimated cash reserve for each fiscal year and shall note whether or not the reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years.

(3) Each proprietary budget statement shall be filed on forms prescribed and furnished by the Auditor of Public Accounts following consultation with representatives of such governing bodies as operate proprietary functions subject to the provisions of the Municipal Proprietary Function Act.

(Neb. RS 18-2805)

(D) (1) After a proposed proprietary budget statement is filed with the Village Clerk, the Board of Trustees shall conduct a public hearing on the statement. Notice of the time and place of the hearing, a summary of the proposed proprietary budget statement, and notice that

the full proposed proprietary budget statement is available for public review with the Village Clerk during normal business hours shall be published 1 time at least 5 days prior to the hearing in a newspaper of general circulation within the Board's jurisdiction or by mailing to each resident within the Board's jurisdiction.

(2) After the hearing, the proposed proprietary budget statement shall be adopted or amended and adopted as amended, and a written record shall be kept of the hearing. If the adopted proprietary budget statement reflects a change from the proposed proprietary statement presented at the hearing, a copy of the adopted proprietary budget statement shall be filed with the Village Clerk within 20 days after its adoption and published in a newspaper of general circulation within the Board's jurisdiction or by mailing to each resident within the Board's jurisdiction.

(Neb. RS 18-2806)

(E) If the actual expenditures for a proprietary function exceed the estimated expenditures in the proprietary budget statement during its fiscal year, the Board of Trustees shall adopt a proprietary function reconciliation statement within 90 days after the end of the fiscal year which reflects any difference between the adopted proprietary budget statement for the previous fiscal year and the actual expenditures and revenue for that fiscal year. After the adoption of a proprietary function reconciliation statement, it shall be filed with the Village Clerk and published in a newspaper of general circulation within the Board's jurisdiction or by mailing to each resident within the Board's jurisdiction. If the difference between the adopted proprietary budget for the previous fiscal year and the actual expenditures and revenues for that fiscal year is greater than 10%, the proprietary function reconciliation statement shall only be adopted following a public hearing.

(Neb. RS 18-2807)

(F) If the budget of a proprietary function is included in the village budget statement created pursuant to the Nebraska Budget Act, the Municipal Proprietary Function Act need not be followed for that proprietary function. Any income from a proprietary function which is transferred to the general fund of the village shall be shown as a source of revenue in the village budget statement created pursuant to the Nebraska Budget Act.

(Neb. RS 18-2808)

TAX LEVIES

§ 35.45 PROPERTY TAX LEVY FOR GENERAL REVENUE PURPOSES.

The village shall have power to levy taxes for general revenue purposes in any 1 year not to exceed \$0.35 on each \$100 upon the taxable value of all the taxable property in the village. The valuation of such property shall be ascertained from the books or assessment rolls of the County Assessor.

(Neb. RS 17-506)

§ 35.46 LEVIES FOR OTHER TAXES AND SPECIAL ASSESSMENTS.

The village shall have power to levy any other tax or special assessment authorized by law.

(Neb. RS 17-507)

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

(A) Notwithstanding provisions in the statutes of Nebraska and this code to the contrary, for any fiscal year the Board of Trustees may decide to certify to the County Clerk for collection 1 all-purpose levy required to be raised by taxation for all village purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits in § 35.48, the all-purpose levy shall not exceed an annual levy of \$1.05 on each \$100 upon the taxable valuation of all the taxable property in the village. Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the village may be made by the village in addition to such all-purpose levy.

(Neb. RS 19-1309)

(B) If the method provided in division (A) is followed in village financing, the village shall allocate the amount so raised to the several departments of the village in its annual budget and appropriation ordinance, or in other legal manner, as the Board of Trustees deems wisest and best.

(Neb. RS 19-1310)

(C) If the village elects to follow the method provided in division (A), it shall be bound by that election during the ensuing fiscal year but may abandon such method in succeeding fiscal years.

(Neb. RS 19-1311)

(D) If it is necessary to certify the amount to county officers for collection, the same shall be certified as a single amount for general fund purposes.

(Neb. RS 19-1312)

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

(A) Property tax levies for the support of the village for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this division (A), except as provided in division (C). The village may levy a maximum levy of \$0.45 per \$100 of taxable

valuation of property subject to the levy plus an additional \$0.05 per \$100 of taxable valuation to provide financing for the village's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. RS 51-201, museum pursuant to Neb. RS 51-501, visiting community nurse, home health nurse, or home health agency pursuant to Neb. RS 71-1637, or statue, memorial, or monument pursuant to Neb. RS 80-202. Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against the village which require or obligate the village to pay that judgment, to the extent the judgment is not paid by liability insurance coverage of the village, for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this division (A). The limitations on tax levies provided in this division (A) are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this division (A) are those provided by or authorized by this section. Tax levies in excess of the limitations in this section shall be considered unauthorized levies under Neb. RS 77-1606 unless approved under division (C). (Neb. RS 77-3442)

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

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

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

1. Adopt a resolution by a majority vote of members present which

determines a final allocation of levy authority to its political subdivisions; and

2. Forward a copy of that resolution to the chairperson of the governing body of each of its political subdivisions.

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

(Neb. RS 77-3443)

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

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

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

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

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

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

(5) Any excess levy authority approved under this division (C) shall terminate pursuant to its terms, on a vote of the Board of Trustees to terminate the authority to levy more than the limits, at the end of the fourth fiscal year following the first year in which the levy exceeded the limit, or as provided in division (C)(9), whichever is earliest.

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

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

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

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

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

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

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

(c) The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either the excess levy authority will be rescinded or the excess levy authority will be modified. If the excess levy

authority will be modified, the amount and duration of the modification shall be stated. The modification shall not have a duration greater than 5 years. The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition, and the time of publication and providing a copy of the notice of election required in Neb. RS 32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act.

(Neb. RS 77-3444)

§ 35.49 PROPERTY TAX LEVY; CERTIFICATION OF AMOUNT; COLLECTION.

The Board of Trustees shall, at the time and in the manner provided by law, cause to be certified to the County Clerk the amount of tax to be levied upon the taxable value of all the taxable property of the village which the village requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. The County Clerk shall place the same on the property tax lists to be collected in the manner provided by law for the collection of county taxes in the county where the village is situated. In all sales for any delinquent taxes for municipal purposes, if there are other delinquent taxes due from the same person or a lien on the same property, the sale shall be for all the delinquent taxes. Such sales and all sales made under or by virtue of this section or the provision of law herein referred to shall be of the same validity and in all respects be deemed and treated as though such sales had been made for the delinquent county taxes exclusively.

(Neb. 17-702)

§ 35.50 PROPERTY TAX REQUEST; PROCEDURE FOR SETTING.

(A) The property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization in Neb. RS 77-1601 unless the Board of Trustees passes by a majority vote a resolution or ordinance setting the tax request at a different amount. That resolution or ordinance shall only be passed after a special public hearing called for the purpose is held and after notice is published in a newspaper of general circulation in the area of the village at least 5 days prior to the hearing.

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

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

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

(3) The proposed dollar amount of the tax request for the current year and the

property tax rate that will be necessary to fund that tax request.

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

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

§ 35.51 MOTOR VEHICLE TAX.

The village may levy a tax on all motor vehicles owned or used in the village, which tax shall be paid to the designated county official of the county in which the village is located when the registration fees as provided in the Motor Vehicle Registration Act are paid. These taxes shall be remitted to the County Treasurer for credit to the road fund of the village. These 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 those purposes.

(Neb. RS 18-1214)

Statutory reference:

Designation of county official, see Neb. RS 23-186

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