

Chapter 1

ADMINISTRATIVE

Article 7. Elections

§1-701 ELECTIONS; GENERALLY.

(A) All Municipal 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 Municipal offices or issues can reasonably be combined with the nonpartisan ballot and state law does not require otherwise. All Municipal 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.

(Ref. 32-556 RS Neb.)

(B) When the Municipality 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 Municipality shall be held as provided in the Election Act unless otherwise provided by the charter, code, or bylaws of the Municipality. *(Ref. 32-404 RS Neb.)(Amended by Ord. No. 552, 1/11/05)*

§1-701.01 ELECTIONS; ELECTION OF OFFICERS; CERTIFICATIONS REQUIRED. No later than July 1 of each even-numbered year, the Village Board shall certify to the Election Commissioner of the County Clerk, on forms prescribed by such official, 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. *(Ref. 32-404 RS Neb.)(Amended by Ord Nos. 354, 4/9/96; 458, 7/11/00; 552, 1/11/05)*

§1-702 ELECTION; TERM OF OFFICE. All elected officers of the Municipality shall serve a term of four (4) years and until their successors are elected and have qualified. *(Ref. 17-203.01 RS Neb.)*

§1-703 ELECTION; TIE VOTES. In the case of a tie vote of any of the candidates in the general Municipal election, the County Clerk shall notify such candidates to appear at his office on a given day and hour to determine the same by lot before the canvassing board, and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail. *(Ref. 17-202 RS Neb.)*

§1-704 ELECTIONS; JOINT, GENERAL. The general Municipal election shall be held in accordance with the provisions of Chapter thirty-two (32), Revised Statutes of Nebraska. The Governing Body has determined, by ordinance duly adopted, to hold the Municipal Election in conjunction with the Statewide Primary Election, held on the first (1st) Tuesday after the second (2nd) Monday in May of each even numbered year. Prior to February one (1) of the year, in which the first such joint election takes place, the Governing Body shall receive the consent in writing of the County Board to so hold the election and such authorization shall be prescribed according to State law. The County Clerk shall have charge of the election and shall have the authority to deputize the Municipal Clerk for the Municipal election purposes. *(Ref. 32-505, 32-4,147 RS Neb.)*

§1-705 ELECTIONS; JOINT, GENERAL, NOTICE. The County Clerk shall publish in a newspaper designated by the County Board the notice of the election no less than forty (40) days prior to the General

Municipal Election. This notice will serve the notice requirement for all Municipal Elections which are held in conjunction with the County. (*Ref. 32-402.01 RS Neb.*)

§1-706 ELECTIONS; SPECIAL.

(A)(1) Except as provided in section 77-3444 RS Neb., 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 fifty (50) days prior to the election. A special election may be held by mail as provided in section 32-952 through 32-959 RS Neb. Any other special election shall be subject to division (B) of this section.

(2) In lieu of submitting the issue at the 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 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 the Village Clerk shall be responsible for the publication or posting of any required special notice of the submission of such issue other than the notice required to be given of the statewide election issues. The Election Commissioner or County Clerk shall prepare the ballots and issue ballots for early voting 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. (*Ref. 32-559 RS Neb.*)

(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. (*Ref. 32-405 RS Neb.*)(*Amended by Ord. Nos. 389, 7/8/97; 533, 4/13/04*)

§1-707 ELECTIONS; 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 one percent (1%) of the annual salary as on November 30 of the year preceding the election 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 ten (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 five hundred dollars (\$500.00) 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 a home; and

(ii) Assets to a maximum value of three thousand dollars (\$3,000.00) 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. *(ref. 32-608 RS Neb.)(Amended by Ord. No. 641, 5/12/15)*

§1-708 ELECTIONS; 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 and who was not registered to vote with a party affiliation on or after March 1 and before the general election in the calendar year of the general election may have his or her name placed on the general election ballot for a partisan office by filing petitions as prescribed in this section and section 32-621 RS Neb. or by nomination by political party convention or committee pursuant to sections 32-627 or 32-710 RS Neb.

(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, files as a write-in candidate as prescribed in Neb. RS 32-615, or is nominated by political party convention or committee pursuant to Neb. RS 32-710. *(Ref. 32-616 RS Neb.)*

(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. A sample copy of the petition shall be filed with the filing officer prior to circulation. 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 chose by ward, and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. RS 32-607. 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. *(Ref. 32-617 RS Neb.)*

(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 2,000.

(2) The number of signatures of registered votes needed to place the name of a candidate for an office upon the partisan ballot for the general election shall be as follows:

(a) For each partisan office to be filled by the registered voters of the entire state, at least 4,000 and at least 750 signatures shall be obtained in each congressional district in the state;

(b) For each partisan office to be filled by the registered voters of a county, at least 20% of the total number of registered voters voting for Governor or the President of the United States at the immediately preceding general election within the county, not to exceed 2,000 except that the number of signatures shall not be required to exceed 25% of the total number of registered voters voting for office at the immediately preceding general election; and

(c) For each partisan office to be filled by the registered voters of a political subdivision other than a county, at least 20% of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election within the political subdivision, not to exceed 2,000. *(Ref. 32-618 RS Neb.) (Amended by Ord. Nos. 420, 11/10/98; 519, 10/14/03; 598, 1/10/12; 644, 5/11/15; 694, 12/10/19)*

§1-709 ELECTIONS; CAUCUS CANDIDATES. The Governing Body of the Municipality may, by ordinance call a caucus for the purpose of nominating candidates for offices to be filled in the Village election. Such caucus shall be held at least ten (10) days prior to the filing deadline for such election. Notice of such caucus must be published in one (1) newspaper of general circulation in the Municipality, at least once in each of two (2) consecutive weeks prior to said caucus. The Municipal Clerk shall notify the person so nominated of his nomination and such notification shall take place not less than five (5) days after the said caucus. A candidate so nominated shall not have his name placed upon the ballot unless, not more than ten (10) days after the holding of such caucus, he shall have filed with the Municipal Clerk a written statement accepting the nomination of the caucus and shall have paid the filing fee, if any, for the office for which he was nominated. *(Ref. 17-601.01 through 17-603 RS Neb.)*

§1-710 ELECTIONS; OFFICIALS. *(Repealed by Ord. No. 422, 11/10/98)*

§1-711 ELECTIONS; OFFICIALS OATH. *(Repealed by Ord. No. 422, 11/10/98)*

§1-712 ELECTIONS; VOTER QUALIFICATIONS. Electors shall mean every person of the constitutionally prescribed age or upwards, who shall have the right to vote for all officers to be elected to public office, and upon all questions and proposals, lawfully submitted to the voters at any and all elections authorized or provided for by the Constitution or the laws of the State of Nebraska, except school elections; provided, no person shall be qualified to vote at any election unless such person shall be a resident of the State and shall have been properly registered with the election official of the county. *(Ref. 17-602, 32-102 RS Neb.)*

§1-713 ELECTIONS; BOARD OF TRUSTEES. Board of Trustees members shall be elected from the Municipality at large unless the residents of the Municipality have voted to elect its Board members by wards. Board members shall serve for a term of four (4) years and shall be a resident and qualified elector. If the election of Board members takes place by wards, each nominee for Board member shall be a resident and qualified elector of the ward for which he or she is a candidate, and only residents of that ward may sign the candidates' nomination petitions. *(Ref. 5-108 RS Neb.)*

§1-714 ELECTIONS; BALLOTS. The County Clerk shall provide printed ballots for every general Municipal election and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the Municipality. *(Ref. 32-417, 32-418 RS Neb.)*

§1-715 ELECTIONS; CERTIFICATE OF NOMINATION OR ELECTION. *(Ord. No. 457, 7/11/00)(Repealed by Ord. No. 552, 1/11/05)*

§1-716 ELECTIONS; INABILITY TO ASSUME OFFICE. *(Repealed by Ord. No. 520, 10/14/03)*

§1-717 ELECTIONS; 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. *(Ref. 32-1301 RS Neb.)*

(B) Any member of the Governing Body may be removed from office by recall pursuant to this section. *(Ref. 32-1302 RS Neb.)*

(C)(1) A petition demanding that the question of removing a member of the Governing Body be submitted to the registered voters shall be signed by registered voters equal in number to at least forty-five percent (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 sections 32-629 and 32-630 RS Neb.

(3) The petition papers shall be produced from the filing clerk. Prior to the issuance of such petition papers, a recall petition filing form shall be signed and filed with the filing clerk by at least one (1) registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The filing form shall state the name and office of the Trustee sought to be removed, shall include in concise language of sixty (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 section 25-505.01 RS Neb. or, if notification cannot be made with reasonable diligence by any methods specified in section 25-505.01 RS Neb., 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 concise language of sixty (60) words or less for inclusion on the petition. Any such defense statement shall be submitted to the filing clerk within twenty (20) days after the Trustee receives the copy of the filing form. The filing clerk shall prepare the petitions papers within five (5) business days after receipt of the defense statement. The principal circulator or circulators shall gather the petition papers within twenty (20) days after being notified by the filing clerk that the petition

papers are available. The filing clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within thirty (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 person who may act as circulators of such petitions.

(5) Petition signers shall conform to the requirements of sections 32-629 and 32-630 RS Neb. 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. *(Ref. 32-1303 RS Neb.)*

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

(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 thirty (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 fifteen (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. *(Ref. 32-1305 RS Neb.)*

(F)(1) If the recall petition is found to be sufficient, the filing clerk shall notify the Trustee whose removal is sought and the Governing Body that sufficient signatures have been gathered. Notification of the Trustee may be by any method specified in section 25-505.01 RS Neb. or, if notification cannot be made with reasonable diligence by any of the methods specified in section 25-505.01 RS Neb., 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) The Governing Body shall order an election to be held not less than fifty (50) days nor more than eighty (80) days after the notification of the Trustee whose removal is sought under division (F)(1) of this section, except that if any other election is to be held in the Village within ninety (90) days after such notification, the Board shall provide for the holding of the recall election on the same day. All resignations shall be tendered as provided in section 32-562 RS Neb. If the Trustee whose removal is sought resigns before the recall election is held, the Board may cancel the recall election if the Board notifies the Election Commissioner or County Clerk of the cancellation at least twenty-four (24) days prior to the election, otherwise the recall election shall be held as scheduled.

(3) If the Governing Body 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. If a filing clerk is subject to a recall election, the Secretary of State shall conduct the recall election. *(Ref. 32-1306 RS Neb.)*

(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 section 32-1307 RS Neb.

(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 otherwise provided in this section and sections 32-567 to 32-570 and 32-574 RS Neb.

(3) If the election results show a margin of votes equal to one percent (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 the recount.

(4) If there are vacancies in the offices of one-half or more of the members of the Governing Body 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 Governing Body during the remainder of his or her term of office. *(Ref. 32-1308 RS Neb.)*

(I) No recall petition shall be filed against an elected Trustee within twelve (12) months after a recall election has failed to remove him or her from office or within six (6) months after the beginning of his or her term of office or within six (6) months prior to the incumbent filing deadline for the office. *(Ref. 32-1309 RS Neb.) (Amended by Ord. Nos. 421, 11/10/98; 452, 6/8/99; 521, 10/14/03; 534, 4/13/04; 599, 1/10/12; 655, 12/8/15; 695, 12/10/19)*

§1-718 ELECTIONS; CANDIDATE QUALIFICATIONS. Any person seeking elected office in the Municipality shall be a registered voter prior to holding such office and in addition shall have reached the age of majority. *(Ref. 32-4,157 RS Neb.)*

§1-719 ELECTIONS; EXIT POLLS. No person shall conduct any exit poll, public opinion poll, or any other interview with voters on election day seeking to determine voter performance within twenty feet (20') of the entrance of any polling place room or, if inside the polling place building, within one hundred feet (100') of any voting booth. *(Ref. 32-1221 RS Neb.)*