

CHAPTER 61.

VILLAGES.

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61.01 Incorporation; area and population. Any part of any town or towns not included in any village, lying in the same county or in two or more adjoining counties, not more than one-half square mile in area, with a resident population of not less than one hundred and fifty; or of a greater area than one-half square mile and a population of not less than two hundred; or not less than one square mile in area, with a population of at least four hundred persons to every square mile thereof, may, upon application therefor by not less than five taxpayers and residents of such territory and upon compliance with the conditions of this chapter, become incorporated as a village by such name as may be designated in the order of the court for its incorporation with the ordinary powers of a municipal corporation, and such as are conferred by the statutes, except that no territory used principally for tourist or summer resort purposes, shall be so incorporated where one-half or more thereof, in area, is owned by persons who are not qualified, because of nonresidence, to vote in the state or in the township in which is located the land so owned; unless the majority of the nonresident owners, by petition, consent to the incorporation thereof. [1937 c. 359; 1939 c. 307]

Note: Objections to an application for incorporation of territory as a village under 61.01 to 61.14 raise issues of fact for judicial determination, and the findings and conclusion of the trial court on the question of whether the facts warrant incorporation must be accepted unless against the great weight and clear preponderance of the evidence offered in support of and in opposition to the application, or a mistake has been made in applying law to the facts. In re Incorporation of St. Francis, 209 W 645, 245 NW 840. See note to 62.07, citing In re Incorporation of St. Francis, 208 W 431, 243 NW 315.

61.02 Survey; map; census. The persons intending to make the application, for the incorporation of such village shall cause to be made by a practical surveyor an accurate survey and map of the territory intended to be embraced within the limits of such village, showing the courses and distances of the boundaries and the quantity of land contained therein; which survey and map shall be verified by the affidavit of such surveyor

affixed thereto. They shall also cause to be taken an accurate census of the resident population of such territory as it may be on some day not more than ten weeks previous to the time of making such application, exhibiting the name of every head of a family and the name of every person a resident in good faith of such territory on such day, and the lot or quarter section of land on which he resides, which shall be verified by the affidavit of the person taking the same affixed thereto.

61.03 Same; public may examine. Such survey, map and census, when completed and verified as aforesaid, shall be left at the residence or place of business within such territory of some person residing therein, and there kept subject to examination at all reasonable hours by every person interested for a period of five weeks from the posting or first publication of the notice of such application as hereinafter provided.

61.04 Notice of application to court. The intending applicants shall give notice that they will apply on some day therein specified to the circuit court of the county in which such territory or a part thereof lies for an order incorporating such territory as a village by a name to be therein specified; and such notice shall describe the boundaries of such territory by courses and distances and specify the town or towns in which it lies, and state where such survey, map and census have been left and may be examined as aforesaid.

61.05 Notice; publication. If there be a newspaper printed within such territory, such notice shall be printed therein once in each week for 3 consecutive weeks previous to the time specified for making such application, and if there be no such newspaper such notice shall be posted in at least 3 of the most public places in such territory at least 3 weeks before the time so specified in said notice. [1947 c. 506]

61.06 Petition; accompanying documents. Such application shall be by petition, subscribed by the applicants, and shall have annexed such survey, map and census and the affidavits verifying the same, and an affidavit that they were left and kept subject to examination as provided in section 61.03, together with a copy of the notice of application with an affidavit affixed thereto, of the publication or posting of the same as hereinbefore provided, and it shall be presented at the time specified in the notice for presenting the same or as soon thereafter as the applicants can be conveniently heard in respect thereto.

61.07 Hearing; costs. (1) If prior to the date set for a hearing upon such application there is filed with the court a petition protesting against the incorporation of such village, the court shall deny the application, after satisfying itself that such petition has been signed by a majority of the freeholders or the owners of more than one-half of the property by assessed value in the territory proposed to be incorporated; providing, however, that this section shall not apply to counties having a population of 250,000 or over.

(2) If such a petition is not filed, the court shall hear all parties interested for or against such application who shall seasonably appear; may in its discretion adjourn such hearing from time to time, direct a resurvey to be made or another census taken by whomsoever it shall appoint, and refer any question for examination and report thereon. Any town containing territory of the proposed new village shall upon application be a party and entitled to be heard on any matter pertaining to the right of such proposed territory to incorporate as a village.

(3) If the court shall deny such application, it may, in its discretion, by order, compel the applicants to pay such disbursements or any part thereof as shall have been incurred by the parties opposing the same. No petition for the incorporation of substantially the same territory shall be entertained for one year following the date of the denial of such application or the date of any election at which incorporation was rejected by the electors. [1941 c. 84; 1947 c. 307]

Note: In proceedings for the incorporation of a village, objecting petitions must be filed with the court on or before the date set for hearing to be entitled to consideration. The provision that all parties for or against the application for incorporation of a village shall be heard who shall season-

ably appear, does not apply to the time for filing objecting petitions. In this case the court discusses and considers the necessary characteristics of a village which warrant an order of incorporation. In re Incorporation of Village of Twin Lakes, 226 W 505, 277 NW 373.

61.08 Order; contents; immaterial defects. If the court, after such hearing, shall be satisfied of the correctness of any such survey or resurvey and census, that all the requirements of the statutes have been complied with, and that such territory as is proposed to be included contained, at the time such census was first or subsequently taken, the population in number and in proportion to the quantity of land therein required in section 61.01, it shall make an order declaring that such territory, the boundaries of which shall be therein set forth by courses and distances, shall be an incorporated village by the name specified in such application, if the electors thereof shall assent thereto as herein-after provided; and in such order it shall direct three persons of the town or towns in which such territory shall lie, to be named therein, to perform the duties of inspectors of

election as herein required. If the order of incorporation as made by the court shall be irregularly or defectively entered the court or the presiding judge thereof may, at any time, sign and enter nunc pro tunc the proper order of incorporation, and the same may be recorded as herein provided within ten days after the actual signing of such order; any other irregularities or defects not going to the groundwork of the organization shall not be deemed to invalidate the incorporation of said village.

61.09 Election. (1) **NOTICE.** Such inspectors shall, without unnecessary delay, give notice of a meeting of the electors of the territory described in such order to be held within sixty days of the date of such order at some convenient place therein, to be specified in such notice, for the purpose of determining whether or not such territory shall be an incorporated village.

(2) **PUBLICATION OF NOTICE.** If there be a newspaper printed in such territory such notice shall be published therein once in each week for three successive weeks previous to such meeting; and if there be no newspaper so printed copies of such notice shall be posted in at least three of the most public places in such territory at least three weeks previous to such meeting.

(3) **HOW CONDUCTED.** Such inspectors shall preside and act as inspectors of election at such meeting, and may designate one of their number or some other person as clerk thereof. The ballot shall contain the words "For Incorporation" and "Against Incorporation" and shall otherwise conform to the provisions of subsection (8) of section 6.23. The polls shall be opened and closed; vacancies in the board of inspectors shall be filled and such election shall be conducted and votes canvassed according to the statutes regulating town meetings; and all laws relating to elections for town officers shall apply to and govern such meeting and the proceedings thereof and the persons voting thereat so far as properly applicable and consistent therewith.

(4) **CANVASS; STATEMENT TO BE RECORDED.** The inspectors who shall have presided at such meeting shall make a statement of the holding of such meeting showing the whole number of votes cast, the number cast for incorporation, and the number cast against incorporation, which statement they shall verify by their affidavit annexed thereto, and cause said statement to be recorded in the office of the register of deeds of the county or counties in which such territory lies as provided in section 61.11.

61.10 Village a corporation. (1) **DATE OF; NAME.** If a majority of the votes cast at such meeting shall be against incorporation no further proceedings shall be had in respect to such incorporation under such application and order; but if a majority of such votes shall be in favor of incorporation the inhabitants of such territory shall, from the time of the recording of the order of the court aforesaid in the office of the register of deeds, be deemed a body corporate by the name specified in such order.

(2) **REMAINS PART OF FORMER ELECTION DISTRICT; WHEN.** If after any village shall have become incorporated there shall not remain, before the next ensuing judicial election or election for state or county superintendent or before any general election, time to comply with the provisions of any law relating to the holding of any such election, then and in that event such village shall, for the purposes of any such ensuing election remain a part of the election district or districts to which the same was attached before said separation was had.

(3) **VILLAGE POWERS.** Every village incorporated under this chapter shall be a body corporate and politic, with the powers and privileges of a municipal corporation at common law and conferred by this chapter, these statutes and the constitution of the state of Wisconsin.

(4) **EXISTING ORDINANCES.** Ordinances in force in the territory comprising the village or any part thereof, so far as not inconsistent with the provisions of chapter 61, shall continue in force until altered or repealed. [1945 c. 541]

61.11 Documents to be filed and recorded. The petition and all accompanying papers and all such as have been added under the direction of the court, the order of the court for incorporation and the statement and affidavit of the inspectors aforesaid shall be recorded at length by the register of deeds within 10 days after such election, and be recorded at length in the office of the village clerk by him within 30 days after election and qualification. All necessary and proper expenses and charges attending upon the incorporation and such records thereof shall be paid by such village. Two certified copies of the order of the court for the incorporation of the village, to which shall be added an affidavit of the inspectors of election that the said election resulted in favor of the incorporation of such village, shall be filed in the office of the secretary of state; which certified copies and affidavits shall show the date originals were recorded in the office of the register of deeds. One copy shall be forwarded by the secretary of state to the highway commission. [1947 c. 113]

61.12 Election of officers. Within ten days after the incorporation of such village as aforesaid the inspectors named in such order of the court shall give notice in the manner prescribed in subsection (2) of section 61.09, of the time, which shall not be more than thirty days after the date of such notice, and place of a meeting of the electors of such village to elect officers thereof; such meeting shall be held at some convenient place therein, to be specified in such notice.

61.13 Conduct of election. Such inspectors shall preside at such first election as inspectors thereof, and shall designate one of their number or some other person to act as clerk; and all the laws of this state in relation to the election of town officers and notification of their election shall apply to such first election so far as the same can be so applied and are consistent therewith. Vacancies in the office of inspector of elections shall be filled as provided for in the case of inspectors of town meetings.

61.14 Canvass. The inspectors of such first election shall canvass the votes given thereat and shall make and subscribe a certificate of such canvass, which shall show the whole number of votes given for each officer, the number given for each person voted for and the office for which each such person shall have been voted for. Such certificate shall be recorded in the records of such village and filed in the office of the clerk thereof.

61.15 [Renumbered section 66.03 by 1921 c. 396 s. 4]

61.15 Validity of incorporation; how and when tested. In any case whether occurring heretofore or hereafter, where any village shall have attempted to incorporate under and pursuant to the provisions of this chapter, and such village and its officers, shall have assumed thereafter in good faith to act under, and to exercise the powers conferred by, the provisions of law upon villages organized under this chapter, any question of the validity of such incorporation and proceedings therefor may be tested by certiorari, or by any other proper action or proceedings brought directly for the purpose of vacating or setting aside the same, at any time within 3 months after such incorporation, but not thereafter. No such incorporation, nor any proceeding for such incorporation, shall be in any manner called in question, or held to be invalid in any action or proceeding, except one brought directly for that purpose, within the time hereinbefore limited therefor, unless the same shall have been duly vacated or set aside by a court of competent jurisdiction. [1947 c. 388]

61.16 [Renumbered section 66.03 by 1921 c. 396 s. 4]

61.17 Taxes levied before incorporation; how collected and divided. Whenever a village is incorporated from territory within any town or towns, after the assessment of taxes in any year and before the collection of such taxes, the tax so assessed shall be collected by the town treasurer of the town or the town treasurers of the different towns of which such village formerly constituted a part, and all moneys collected from the tax levied for town purposes shall be divided between such village and such town or the towns, as the case may be, in the same manner provided by section 66.03, for the division of property owned jointly by towns and villages.

61.18 Boundaries. (1) **ALTERATION OF.** The boundaries of any village may be altered by annexing contiguous territory, or by detaching territory, or by both annexing contiguous territory and detaching territory upon compliance with the provisions of this section.

(2) **AREA AND POPULATION.** The population and area of the village after the boundaries shall have been altered shall conform to the requirements relating thereto in section 61.01.

(3) **APPLICATION; PROCEDURE.** Application to alter the boundary of any village shall be made to the circuit court of the county in which the village or any part thereof lies, by petition subscribed by some officer, or officers, of the village acting under the authority and direction of the village board, or by at least five residents and taxpayers of said village, and shall be preceded by proceedings respecting survey, map, census, notice to be heard, and publication of notice pursuant to the provisions of sections 61.01 to 61.06, inclusive, properly applied to such subject, except that the survey, map and census required shall be left for examination by persons interested with the village clerk for a period of three weeks from the posting or first publication of the notice of such application.

(4) **ORDER CHANGING BOUNDARY.** If the court, after such hearing, shall be satisfied of the correctness of any such survey or resurvey and census, that all the requirements of this act have been complied with, and that such village, after the proposed alteration contains within its limits the population and area required by section 61.01 it shall make an order altering the boundaries of such village as prayed for in said petition; said order shall describe the boundaries as altered which shall be therein set forth by courses and distances.

(5) CONSENT TO ALTERATION; ELECTION. If the court after such hearing shall be satisfied by affidavit or other due proofs that the board of trustees of such village has duly passed a resolution consenting to such proposed alteration and that all of the owners of property to be annexed, or detached, consent to such proposed alteration, the boundaries of such village shall be deemed altered without any further acts, upon the recording of such order in the office of the register of deeds of the county in which said village may be located. But if the board of trustees and each owner of land to be annexed or detached shall not have so consented to such alteration the order of the court shall direct a special election to be called by the trustees of such village as well as an election in such additional territory or detached territory by inspectors to be appointed by the court. The ballot shall contain the words "For Alteration" and "Against Alteration" and shall otherwise conform to the provisions of subsection (8) of section 6.23. If the majority of ballots in either the village or such territory shall be "Against Alteration" no further action shall be had under such application. But if the majority of the ballots in each be "For Alteration" such boundaries shall be altered from the time of recording such order of alteration with the register of deeds.

(6) CANVASS; DOCUMENTS TO BE FILED AND RECORDED. The inspector of election in both the village and such territory shall make a similar statement to that required in subsection (4) of section 61.09 and all proceedings shall be recorded as provided in said subsection (4) of section 61.09. In all cases of an alteration of boundaries like certificate and affidavits shall be filed in the office of the secretary of state as in the case of the incorporation of new villages.

(7) EXTENSION OVER WATERS. (a) Application to alter the boundaries of any village so as to include any part of any inland body of water adjacent thereto shall be made to the circuit court of the county in which the village or any part thereof lies, in the same manner and form as heretofore set forth in this section, except that proceedings regarding a census and an election shall not be applicable. Notice of such application shall, however, be served upon the supervisors of the township within which such water lies and upon all other municipalities bordering on such inland body of water. Said municipalities may be heard in opposition to such alteration. If the court after such hearing shall be satisfied that the public good demands that any part of said inland bodies of water be incorporated in said village limits, it shall enter an order so modifying the village limits.

(b) The procedure outlined in sections 61.02 to 61.18 shall be followed in so far as the provisions therein set forth are applicable. [1931 c. 452]

61.185 Villages, changing territory. The provisions of section 62.07 shall apply to villages, and the powers and duties conferred and imposed by said section upon mayors, councils and specified city officials are hereby conferred upon presidents, village boards, and village officials performing duties similar to the duties of such specified city officials, respectively; in case the village has no official paper, the notice specified in paragraph (b) of subsection (1) of section 62.07 shall be posted in three public places in said village at least one week prior to the date of hearing therein specified. [1931 c. 251; 1935 c. 421 s. 2]

61.187 Dissolution. (1) PROCEDURE. Whenever an application in writing, signed by one-third as many electors of any village as voted for village officers at the next preceding election therefor, shall be presented to the village board praying for dissolution of the village corporation, such board shall submit to the electors of such village, for determination by ballot in substantially the manner provided by sections 6.22 and 6.23, at a general election or at a special election called by them for that purpose, the question whether or not such village corporation shall be dissolved.

(2) DATE OF; PROPERTY; CLAIMS; TERRITORY. If two-thirds of the ballots cast at such election on such proposition shall be for dissolution such village shall, at the expiration of 6 months from the date of such election, cease to be an incorporated village. Within 6 months the village board shall dispose of the village property and settle, audit and allow all just claims against the village. It shall settle with the treasurer and other village officers, and cause the assets of the village to be used in paying its debts. If anything remain after paying such debts it may designate the manner in which the same shall be used. If there are not sufficient funds to pay the debts of the village the board may levy a tax to cover the deficiency, which shall be collected as other taxes and be paid out by the town treasurer in payment of the outstanding village orders or bonds; and in case of such dissolution the territory embraced in the village shall revert to and become a part of the town or towns from which it was taken or in which it is then located. Within 10 days after such election, if resulting in favor of dissolution, the village clerk shall file with the register of deeds and secretary of state certified copies of said petition and the determination of inspectors of election, together with his own certificate showing date when such dissolution takes effect. Said documents shall be recorded by the register of

deeds and proper marginal entry made on the page where original papers were recorded.
[1947 c. 388]

Note: Member of county board from village which voted to dissolve remains member of county board 6 months after vote of dissolution. 24 Atty. Gen. 639.

61.189 Villages of 1,000 may become cities. (1) Whenever the resident population of any village shall exceed 1,000 as shown by the last federal census or by a census as herein provided for, such village may become a city of the fourth class, and the trustees of such village may at a regular meeting, by a two-thirds vote of the members thereof, by resolution, so determine. Such resolution shall fix the number and boundary of the wards into which such city shall be divided and fix the time for holding the first city election, which shall not be less than 20 days from the date of such resolution, and shall therein name 3 inspectors and one clerk of election for each ward.

(2) The election shall be noticed and conducted and the result canvassed and certified as in the case of regular village elections and the village clerk shall immediately file with the secretary of state 2 copies of a certification certifying the fact of holding such election and the result thereof and a description of the legal boundaries of such village or proposed city and 2 certified copies of a plat thereof; and thereupon a certificate of incorporation shall be issued to such city as provided in section 62.06 (6). One copy of the certification and plat shall be forwarded by the secretary of state to the highway commission. Thereafter such city shall in all things be governed by the general city charter law. All debts, obligations and liabilities existing against such village at the time of such change shall continue and become like debts, obligations and liabilities against such city, and such city may carry out and complete all proceedings then pending for the issue of bonds for improvements therein.

(3) If the last federal census figures are not used the village trustees shall cause to be taken an accurate census of the resident population of the village on some day not more than 10 weeks previous to the time of the adoption of such resolution, exhibiting the name of every head of a family and the name of every person a resident in good faith on such day and the lot on which he resides, which shall be verified by the affidavit of the person taking the same affixed thereto. The original of such census shall be filed in the office of the village clerk and a duly verified copy filed with the clerk of the circuit court of the county wherein such village is situated. [1937 c. 300; 1943 c. 66; 1947 c. 113, 388]

Note: No referendum is requisite to issuance of city charter under this section. Before city charter is issued, secretary of state should be furnished documentary evidence of valid adoption of resolution by village board and census results showing required population. Date of incorporation of village as city is date of issuance of charter. 26 Atty. Gen. 533.

61.19 Annual elections; appointments. At the annual spring election in each village in odd-numbered years, except as otherwise provided herein, there shall be chosen the following officers, viz.: A president, a clerk, a treasurer, an assessor, a supervisor, a constable, and a justice of the peace. Any village board may provide for additional justices to be elected in odd-numbered years and the board may change by ordinance the number of or abolish such additional offices. No reduction in the number of justices shall deprive any justice of his office. In villages in counties having a population of at least 250,000 no supervisor shall be elected and the other officers named shall be elected for a term of 2 years on the first Tuesday of April of each year in which is to be held a general election for state officers. Any other officers shall be appointed annually by the village board at their first meeting after the first Tuesday in April unless such board shall otherwise provide. No person not a resident elector in such village shall be elected to any office therein. The village clerk may appoint a deputy clerk for whom he shall be responsible, and who shall take and file the oath of office, and in case of the absence, sickness or other disability of the clerk, may perform his duties and receive the same compensation unless the village board shall appoint a person to act as such clerk. [1931 c. 296 s. 2; 1933 c. 187 s. 4; 1939 c. 513 s. 16; 1943 c. 173, 575; 1945 c. 86]

Note: Person not citizen of United States may be candidate for office of village supervisor, but before he can qualify as supervisor he must become citizen. 26 Atty. Gen. 66.

61.195 Discontinuance and change of term of offices. Any village may proceed pursuant to section 66.01 to discontinue the office of marshal or constable, to change the method of selection of or tenure of any officer other than members of the village board, supervisors and justices of the peace, or to consolidate any such office or offices, or to change the term of office of members of the village board and supervisors. [1937 c. 416; 1939 c. 152]

61.197 Appointment of eligibles. (1) Officers other than members of the village board, supervisors and justices of the peace except as provided in section 61.65, shall be selected by one of the following methods:

(a) Appointment by the village president.

(b) Appointment by the village president subject to confirmation by the village board.

(c) Appointment by the village board.

(d) Election by the voters of those officers so enumerated in section 61.19, unless otherwise provided pursuant to section 61.195.

(e) Selection under any of the above methods, the selection to be from an eligible list established pursuant to section 66.19.

(2) Such officers shall continue to be selected in the manner prevailing on April 15, 1939, provided one of the above plans was in force on that date. Such method shall be continued until changed in the manner provided by section 66.01. However, any village may require that selection be made from an eligible list as specified under paragraph (e) of subsection (1) by the enactment of an ordinary ordinance. [1939 c. 152; 1939 c. 515 s. 6]

61.20 Election of trustees; terms. (1) Villages shall have six trustees, except as provided otherwise in subsection (3) of this section, whose term of office shall be two years, three of whom shall be elected each year.

(2) Villages not now having six trustees shall, on the first Tuesday of April, 1920, and annually thereafter, elect three trustees.

(3) Villages having a population of three hundred and fifty or less shall have two trustees, who together with the president shall constitute the village board, a majority of whom shall constitute a quorum. One trustee shall be elected each year for a term of two years.

(4) Any village may by ordinance change the number of trustees, but such change in the number of trustees shall not affect the term of office of trustees elected prior to the adoption of such ordinance authorizing such change. [1943 c. 204]

Note: Officers of district attorney and Village which had less than three hundred fifty population under 1930 federal census is entitled to but two trustees under (3).
26 Atty. Gen. 11.
See note to 331.20, citing 26 Atty. Gen. 27 Atty. Gen. 311.
228.

61.21 Clerk to notify officers-elect; oath of office. Within 5 days after the election or appointment of any village officer the village clerk shall notify the person so selected thereof unless he voted at such election, and every person elected or appointed to any office named in section 61.19 except justice of the peace shall within 5 days after such election or appointment or notice thereof, when so required to be given, take and file the official oath. [1945 c. 23]

61.22 Official bonds; officers not to be sureties. Every bond required of a village officer shall be executed with sufficient sureties in a sum fixed by the village board when not otherwise prescribed and be approved by the president. Whenever the village board shall deem any bond insufficient they may require an additional bond to be executed and filed in a sum and within a time not less than ten days, to be fixed by them. No village officer shall be accepted as a surety on any bond, note or other obligation to the village.

61.23 Terms; temporary vacancy. (1) Except as otherwise provided by statute the term of office of all village officers shall be 2 years and until their respective successors are elected or appointed and qualify. If any officer be absent or temporarily incapacitated from any cause the board may appoint some person to discharge his duties until he returns or until such disability is removed.

(2) The regular term of office of village president and trustees and supervisor shall commence on the third Tuesday of April in the year of their election. The regular terms of other officers shall commence on May 1 succeeding their election unless otherwise provided by ordinance or statute. [1943 c. 66, 173, 575; 1947 c. 534]

61.24 President. The president shall be by virtue of his office a trustee and preside at all meetings of the board and have a vote as trustee, sign all ordinances, rules, by-laws, regulations, commissions, licenses and permits adopted or authorized by the board and all orders drawn on the treasury. He shall maintain peace and good order, see that the ordinances are faithfully obeyed, and in case of disturbance, riot or other apparent necessity appoint as many special marshals as he shall deem necessary, who for the time being shall possess all the powers and rights of constables.

Note: Duties of village president and chief of village fire department are incompatible.
28 Atty. Gen. 21.

61.25 Clerk. The village clerk shall execute and file an official bond. It shall be his duty:

(1) To perform any duties prescribed by law relative to elections, to keep subject to inspection all election returns required to be filed in his office, and to notify persons elected or appointed to village offices.

(2) To transmit to the county clerk, within ten days after election and qualification, a certified statement of the name and term for which elected, of the president, clerk,

treasurer, supervisor and assessor; and to the clerk of the circuit court immediately after their election or appointment and qualification, a like statement of the time and term for which elected or appointed of every justice of the peace, marshal or constable of the village.

(3) To attend all meetings of the village board; to record and sign the proceedings thereof and all ordinances, rules, by-laws, resolutions and regulations adopted, and to countersign and keep a record of all licenses, commissions and permits granted or authorized by them, and for such purpose to keep the following books: A minute book, in which shall be recorded in chronological order all the papers mentioned in section 61.11; full minutes of all elections, general or special, and the statements of the inspectors thereof; full minutes of all the proceedings of the board of trustees; the titles of all ordinances, rules, regulations and by-laws, with reference to the book and page where the same may be found. An ordinance book, in which shall be recorded at length, in chronological order, all ordinances, rules, regulations and by-laws. A finance book, in which shall be kept a full and complete record of the finances of the village, showing the receipts, the date, amount and sources thereof, and the disbursements, with the date, amount and object for which paid out; and to enter in either such other matters as the board shall prescribe, and such other books as the board direct.

(4) To countersign and cause to be published or posted every ordinance, by-law or resolution as required by law, and to have proper proof thereof made and filed.

(5) To be the custodian of the corporate seal, and to file as required by law and to safely keep all records, books, papers or property belonging to, filed or deposited in his office, and deliver the same to his successor when qualified; to permit any person with proper care to examine and copy any of the same, and to make and certify a copy of any thereof when required, on payment of the same fees allowed town clerks therefor.

(6) To draw and countersign all orders on the village treasury ordered by the board and none other.

(8) To make a tax roll and deliver the same to the village treasurer; to make and transmit to the county clerk a statement showing the assessed valuation of all the property in the village and separately the amount of all taxes levied therein, including highway and street taxes, for the current year, and the purposes for which they were levied.

(9) To perform all other duties required by law or by any ordinance or other direction of the village board. [1931 c. 289 s. 1]

Note: Offices of justice of peace and village clerk are compatible. 22 Atty. Gen. 289. Village treasurer may pay out moneys only on written order of village president, countersigned by clerk, and under (6) clerk draws and countersigns all orders on treasury ordered by village board and none other. 24 Atty. Gen. 422.

Offices of village clerk and school district clerk are compatible. 5 Atty. Gen. 352 and 23 Atty. Gen. 605 are followed. 22 Atty. Gen. 43 is overruled. 27 Atty. Gen. 549, 29 Atty. Gen. 384.

Duties of village clerk and assistant fire chief are compatible. 28 Atty. Gen. 21.

61.26 Treasurer. The village treasurer shall execute and file an official bond which may be furnished by a surety company as provided by section 204.07. It shall be his duty to receive all moneys belonging or accruing to the village from any source whatever or directed by law to be paid to him; to deposit upon receipt thereof the funds of the village in the name of the village in the public depository designated by the board, and failure to comply with the provisions hereof shall be prima facie grounds for removal from office, and when the money is so deposited, the treasurer and bondsmen shall not be liable for such losses as are defined by subsection (6) of section 34.01, and the interest arising therefrom shall be paid into the village treasury; to pay the same only on the written order of the president, countersigned by the clerk and specifying the number thereof, the payee and the amount and the object for which drawn; to keep just and accurate detailed accounts of all such transactions, showing when, to whom and for what purpose all payments are made, in books provided by the village board, and preserve all vouchers filed in his office; to render an account and settlement of all his official transactions to the board at its last meeting prior to the annual election, and at all other times when required by them; to deliver to his successor when qualified all books of account, papers and property of his office and all money in his hands as treasurer, and to perform such other duties as are required by law or the village board. There shall be kept but one fund in the treasury, except as otherwise provided. The treasurer shall also execute the bond required by section 70.67 of the statutes and take receipt therefor, which he shall file in the office of village clerk. On receipt of the tax roll he shall, and while acting as collector of taxes, exercise the same powers and perform the same duties as are by law conferred upon and required of town treasurers while acting in that capacity, and be subject to the same penalties and liabilities. [1933 c. 435 s. 2]

61.261 Deputy village treasurer. The village treasurer, subject to approval by a majority of all the members of the village board, may in writing, filed in the office of the clerk, appoint a deputy who shall act under his direction and who during the temporary

absence or disability of the treasurer or during a vacancy in such office shall perform the duties of treasurer. The deputy shall receive such compensation as the village board shall determine. The acts of such deputy shall be covered by official bond as the village board shall direct. [1937 c. 22]

61.27 Assessor. In all villages the assessor shall take and file the official oath. He shall begin as provided by section 70.10 to make an assessment of all of the property in his village liable to taxation, in the manner prescribed by law. He shall return his assessment roll to the village clerk at the same time and in the same manner in which town assessors are required to do. His compensation shall be fixed by the village board. [1931 c. 219; 1937 c. 432; 1943 c. 66]

61.28 Marshal. The village marshal shall execute and file an official bond. He shall possess the powers, enjoy the privileges and be subject to the liabilities conferred and imposed by law upon constables, and be taken as included in all writs and papers addressed to constables. It shall be his duty to obey all lawful written orders of the village board; to arrest with or without process and with reasonable diligence to take before the justice of the peace every person found in such village in a state of intoxication or engaged in any disturbance of the peace or violating any law of the state or ordinance of such village. He may command all persons present in such case to assist him therein, and if any person, being so commanded, shall refuse or neglect to render such assistance he shall forfeit not exceeding ten dollars. He shall be entitled to the same fees allowed to constables for similar services; for other service rendered the village such compensation as the board shall fix.

Note: A village marshal killed during an attempt to make an arrest under a criminal warrant, was, as respects compensation act, in the employ of the village, although the attempted arrest was outside of the village. *Schofield v. Industrial Commission*, 204 W 84, 235 NW 396.

61.29 Constable. The constable shall execute and file an official bond, and shall be governed in every respect by the law prescribed for constables in towns.

61.30 Justice of the peace; bond; jurisdiction. The justice of the peace shall within ten days after his election, take and file the official oath and execute and file an official bond. He shall hold his office for two years from the time of his election and until his successor is elected and qualified. He shall have concurrent jurisdiction and powers throughout the county with other justices of the peace. If elected in a village situated in two counties said justice of the peace shall have jurisdiction in each of said counties the same as though the village lay wholly therein, and may hold court in one county while exercising jurisdiction in the other. If a defendant resides in either of said counties, venue upon appeal or certiorari in civil cases shall be in such county, otherwise in that one of said counties where the cause of action arose if it arose in either, otherwise in either county. In criminal cases venue upon appeal or certiorari shall be in the county where the offense was committed. In case of removal of a cause, the papers shall be transmitted to the nearest justice of the peace of the village competent to try the same, and if there be none such or he be absent or sick, then to the nearest justice of the peace of the county where a defendant was served, and in criminal cases, of the county where an offense was committed. He shall hold the police court and shall have exclusive jurisdiction of all cases arising under the ordinances and by-laws of such village. The village board of any village located in a county having a population of at least five hundred thousand or more, may fix the compensation of the justice of the peace, in which event his fees in all cases arising under the ordinances and by-laws of such village, shall be collected and paid into the village treasury in the manner provided by section 61.33. [1931 c. 225, 402; 1933 c. 159 s. 14; 1935 c. 77]

Revisor's Note, 1933: This preserves the amendment made by chapter 225, Laws 1931, which may have been impliedly repealed by chapter 402, Laws 1931. (Bill No. 52 S, s. 14) Villages in Milwaukee county can change compensation of police justice from fee to salary basis during his term. 24 Atty. Gen. 490.

61.31 Peace officers, who are. (1) The president and each trustee shall be officers of the peace, and may suppress in a summary manner any riotous or disorderly conduct in the streets or public places of the village, and may command assistance of all persons under the same penalty for disobedience provided in section 61.28.

(2) Every village police officer shall possess the powers, enjoy the privileges, and be subject to the liabilities conferred and imposed by law upon village marshals. [1941 c. 95]

61.32 Village board; meeting; salaries. The trustees of each village shall constitute a board designated the "Village Board of" (name of village) in which shall be vested all the powers of the village not specifically given some other officer. Four trustees shall constitute a quorum, except in villages having a population of 350 or less, but a less

number may adjourn from time to time. The president shall preside at all meetings when present. In his absence the board may select another trustee to preside. Regular meetings shall be held at such time as may be prescribed by their by-laws. Special meetings may be called by any 2 trustees in writing, filed with the clerk, who shall thereupon seasonably notify all the trustees of the time and place thereof in the manner directed by the by-laws. All meetings shall be open to the public. The board shall keep a record of all its proceedings, and if there be a newspaper published in any village, the board shall cause the proceedings to be published therein in such manner as the board shall direct. Nothing herein shall be construed as requiring the republication of any proceeding, ordinance or other matter or thing which has already been published according to law, nor shall anything herein be construed to relieve any village from publishing any proceeding, ordinance or other matter or thing required by law to be published. Notwithstanding the provisions of section 331.25 (2) the fee for any such publication shall not exceed \$1 per folio. The board shall have power to preserve order at its meetings, compel attendance of trustees and punish nonattendance and it shall be judge of the election and qualification of its members. The president and board of trustees of any village, whether operating under general or special law, may by a three-fourths vote of all the members of the village board determine that an annual salary be paid the president and trustees. Salaries heretofore established shall so remain until changed by ordinance and shall not be increased or diminished during their terms of office. [1935 c. 432; 1937 c. 432; 1943 c. 415]

61.325 Trustee may be appointed president. A village trustee shall be eligible for appointment as village president to fill an unexpired term. [1943 c. 193]

61.33 Trustees not to be interested in contracts. No trustees shall be in any manner, directly or indirectly interested in any contract with or work or labor done for or material furnished to the village or to any one on its behalf. In case of a violation of this section such trustees or officer shall forfeit not less than \$50 nor more than \$500. But the provisions of this section shall not apply to the designation of public depositories for public funds, nor to the publication of legal notices required to be published by any village, or by any village officer, at a rate not higher than that prescribed by law, nor to the contract for the sale of printed matter or any other commodity, not exceeding \$300 in any one year. [1947 c. 59]

61.34 Powers of village board. (1) **GENERAL GRANT.** Except as otherwise provided by law, the village board shall have the management and control of the village property, finances, highways, streets, navigable waters, and the public service, and shall have power to act for the government and good order of the village, for its commercial benefit and for the health, safety, welfare and convenience of the public, and may carry its powers into effect by license, regulation, suppression, borrowing, taxation, special assessment, appropriation, fine, imprisonment, and other necessary or convenient means. The powers hereby conferred shall be in addition to all other grants and shall be limited only by express language.

(2) **CO-OPERATION WITH OTHER MUNICIPALITIES.** The village board, in behalf of the village, may join with other villages or cities in a co-operative arrangement for executing any power or duty in order to attain greater economy or efficiency, including joint employment of appointive officers and employes.

(3) **ACQUISITION AND DISPOSAL OF PROPERTY.** The village board may acquire property, real or personal, within or without the village, for parks, libraries, historic places, recreation, beautification, streets, waterworks, sewage or waste disposal, harbors, improvement of watercourses, public grounds, vehicle parking areas, and for any other public purpose; may improve and beautify the same; may construct, own, lease and maintain buildings on such property for instruction, recreation, amusement and other public purposes; and may sell and convey such property. Condemnation shall be as provided by chapter 32.

(4) **VILLAGE FINANCES.** The village board may levy and provide for the collection of taxes and special assessments; may refund any tax or special assessment paid, or any part thereof, when satisfied that the same was unjust or illegal; and generally may manage the village finances. The village board may loan money to any school district located within the village in such sums as are needed by such district to meet the immediate expenses of operating the schools thereof, and the board of the district may borrow money from such village accordingly and give its note therefor. No such loan shall be made to extend beyond the thirtieth day of August next following the making thereof or in an amount exceeding one-half of the estimated receipts for such district as certified by the state superintendent of schools and the local school clerk. The rate of interest on any such loan shall be determined by the village board.

(5) **CONSTRUCTION OF POWERS.** For the purpose of giving to villages the largest measure of self-government in accordance with the spirit of the home rule amendment to

the constitution it is hereby declared that chapter 61 shall be liberally construed in favor of the rights, powers and privileges of villages to promote the general welfare, peace, good order and prosperity of such villages and the inhabitants thereof. [1933 c. 187 s. 3; 1935 c. 441; 1943 c. 205; 1947 c. 172]

Note: Power of town board to tax unincorporated village for street lights, see note to 60.29, citing Paul v. Greenfield, 202 W 257, 232 NW 770.

Villages have the powers necessarily implied from the powers expressly conferred. A village may regulate the parking of automobiles on business streets. Such an ordinance is not discriminatory because it does not apply to all vehicles. Wonevot v. Taubert, 203 W 73, 233 NW 755.

Narrowing of a street is not a "discontinuance" within 61.38 requiring a written petition of abutting property owners as the basis for action by a village board, and under 61.34 (12), Stats. 1931, the changing of a sixty-foot street by vacating the outer eleven feet of each side by vote of the board without such petition is valid. Huening v. Shenkenberg, 208 W. 177, 242 NW 552.

Villages have power to regulate the construction and location of gasoline filling sta-

tions. An ordinance prohibiting gasoline filling stations within five hundred feet of any residence or any other filling station is not an unreasonable exercise of the power conferred. Where a municipal body enacts regulations pursuant to authority expressly granted, all presumptions are in favor of its validity, and one attacking it must make the fact of its invalidity clearly appear. State ex rel. Newman v. Pagels, 212 W 475, 250 NW 430.

Funds of village created by sale of electric light plant may not be used for construction or extensive repair of district schoolhouse, although boundaries of school district and village coincide. 20 Atty. Gen. 151.

Villages may by ordinance prohibit slot machines and pin ball games as potential gambling devices. 26 Atty. Gen. 585.

61.35 Village planning. The provisions of section 62.23 shall apply to villages, and the powers and duties conferred and imposed by said section upon mayors, councils and specified city officials are hereby conferred upon presidents, village boards, and village officials performing duties similar to the duties of such specified city officials, respectively. Any ordinance or resolution heretofore passed by any village board under the provisions of section 61.35 shall be and remain in full force and effect until repealed or amended by such village board; in case the village has no official paper, notices of public hearings specified in section 62.23 shall be posted in 3 public places in said village the number of days specified in the respective subsections of said section 62.23 prior to the date of the required hearing. [1941 c. 203]

61.355 [Renumbered section 61.185 by 1935 c. 421 s. 2]

61.36 [Repealed by 1943 c. 205]

61.36 Streets, sidewalks, sewers and watercourses. The village board may lay out, open, change, widen or extend roads, streets, alleys, sanitary and storm sewers, parks and other public grounds, and improve, repair or discontinue the same or any part thereof, including lighting and tree planting, and may establish and open and construct drains, canals or sewers and alter, widen or straighten watercourses; may build, alter, repair or otherwise improve or vacate or discontinue sidewalks and crosswalks; and may build and maintain roads and sidewalks required to connect the village with any transportation terminal or village property outside of its limits. [1933 c. 187 s. 3; 1943 c. 205]

61.37 Assessment of special benefits by village board. (1) For the purpose of payment of the expenses, including such excess of damages and all other expenses and costs incurred for the taking of private property and of making any improvement mentioned in 32.02 (1) and 61.34 (3), the village board may, by resolution, levy and assess the whole or any part of such expenses, as a tax upon such property as they shall determine is specially benefited thereby, and they shall include in said levy the whole or any part of the excess of benefits over total damages, if any, making therein a list thereof in which shall be described every lot or parcel of land so assessed with the name of the owner thereof, if known, and the amount levied thereon set opposite.

(2) Such resolution, signed by the president and clerk, shall be published once in each week for two weeks in a newspaper published regularly in such village, or if there be no such newspaper three copies thereof shall be posted by the clerk in three of the most public places in such village, and a notice therewith that at a certain time, therein stated, the said board will meet at their usual place of meeting and hear all objections which may be made to such assessment or to any part thereof.

(3) At the time so fixed the said board shall meet and hear all such objections, and for that purpose may adjourn from day to day, not more than three days, and may by resolution modify such assessment in whole or in part. At any time before the first day of November thereafter any party liable may pay any such tax to the village treasurer. On such first day of November, if any such tax remains unpaid, the village treasurer shall make a certified statement showing what taxes so levied remain unpaid, and file the same with the village clerk, who shall extend the same, together with all assessments of benefits made by the commissioners pursuant to the provisions of section 32.10, upon the tax roll of such village, in addition to and as part of all other village taxes therein levied on such

land, to be collected therewith. [1931 c. 325; 1931 c. 476 s. 5; 1933 c. 187 s. 1, 2; 1943 c. 205]

61.38 Discontinuance of streets and alleys. (1) The whole or any part of any road, street, slip, pier, lane or alley, in any lawfully incorporated village, may be discontinued by the board of trustees of such village, upon the written petition of the owners of all the frontage of the lots and lands abutting upon the portion thereof sought to be discontinued, and of the owners of more than one-half of the frontage of the lots and lands abutting on that portion of the remainder thereof, which lies within 2,650 feet from the ends of the portion proposed to be discontinued, or which lies within so much of said 2,650 feet as shall be within the corporate limits of said village. The beginning and ending of an alley shall be deemed to be within the block in which it is located.

(2) Whenever any of the lots or lands aforesaid is owned by the state, county, city or village, or by a minor or incompetent person, or the title thereof is held in trust, as to all lots and lands so owned or held, said petition may be signed by the governor, chairman of the board of supervisors of the county, mayor of the city, president of the board of trustees of the village, guardian of the minor or incompetent person, or the trustee, respectively, and the signature of any private corporation may be made by its president, secretary or other principal officer or managing agent.

(3) Written notice stating when and where the petition will be acted upon, and stating what road, street, slip, pier, lane or alley, or part thereof, is proposed to be discontinued, shall be given by the board of trustees as follows: By posting copies thereof in 3 public places in said village not less than 3 weeks before the day fixed for the hearing, and when possible, by the publication of said notice in the official or some other newspaper printed in said village, once a week for 3 successive weeks before said day. [1943 c. 305; 1945 c. 421]

Cross Reference: See 281.04, requiring applicant for change in streets to file his pendens.

Note: Narrowing of a street is not a "discontinuance" requiring a written petition of abutting property owners as the basis for action by a village board and under 61.34 (12), Stats. 1931, the changing of a 60-foot street by vacating the outer 11 feet of each side by vote of the board without such petition is valid. Huening v. Shenkenberg, 208 W 177, 242 NW 552.

Where a portion of a highway in a town was brought within the limits of a village as the result of annexation of territory by the village, proceedings by the village for the discontinuance of that portion of the highway within the village limits were governed by the procedure prescribed by 80.11 and 80.12, and not by the procedure prescribed by 61.38. Welch v. Chatterton, 239 W 523, 300 NW 922.

61.39 Discontinuance of abandoned alleys. The board of trustees of any village may, without the petition mentioned in section 61.38 of the statutes, discontinue any alley or any portion thereof which has been abandoned, at any time after the expiration of five years from the date of the recording of the plat by which it was dedicated. Failure or neglect to work or use any alley or any portion thereof for a period of five years next preceding the date of the notice provided for in said section 61.38 shall be deemed an abandonment for the purposes of this section.

61.40 Street improvements; plans; tax levy. (1) The village board of any village may cause any street or alley or any part of any street or alley to be graded, paved, macadamized or otherwise improved, including the construction of curbs and gutters, upon a petition therefor in writing signed by at least a majority of all the owners of real estate bounding both sides, or the village board may cause any such work to be done upon a vote of not less than two-thirds of its members.

(2) Before ordering any such work to be done there shall be filed with the village clerk plans and specifications for same, and the village board may thereupon cause the work to be done. At any time after the filing of the plans and specifications for said work the village board or its committee on streets, shall thereupon view the premises and determine the entire cost of the contemplated work and the benefits that will accrue to the several lots, tracts or parcels of land fronting or abutting upon such street or part of street to be improved, and the amount that should be assessed under the provisions of this chapter to each such lot, tract or parcel of land as benefits accruing thereto by such contemplated work, and shall make and file with the village clerk a report of their determination upon said question. The village board shall thereupon levy and cause to be collected upon the lots, tracts or parcels of ground fronting or abutting upon such street or part of street, a tax sufficient to pay the expense of constructing such improvement as ordered opposite said property to the center of the street. But in no case shall the amount assessed against any such lot, tract or parcel of land exceed the benefit accruing thereto by such improvement. If any taxes levied under this chapter shall prove insufficient to pay the entire cost of such improvement, the remainder shall be paid from the village treasury. [1943 c. 205]

Note: Petition for improvement of village of entire project on street in question. 20 street is sufficient if signed by majority of Atty. Gen. 848. owners of real estate bounding both sides

61.41 **Notice, levy and collection of assessments; bonds; reassessment.** (1) Whenever the village board shall levy any such tax as specified in the preceding section they shall make out a list and a description of the property taxed and file the same in the office of the village clerk and the clerk shall thereupon give notice of the time and place of a meeting of the village board to hear objections to any such assessment, by publishing a notice at least once in some newspaper published in said village, if there be one; if there be none, by posting up such notice in three public places in said village. Such meeting shall be held not less than two weeks nor more than three weeks from the date of said notice. At the time so fixed said board shall hear all parties interested and shall thereupon review and modify or affirm such levy as they deem just.

(2) When the village board shall have reviewed said assessment the village clerk shall deliver to the village treasurer a copy of said assessment, together with a warrant for the collection of said tax and shall within 30 days after such delivery notify the owners of the property described by publishing a notice in some newspaper published in said village, if there be one; if there be none, by posting up notices in 3 public places in such village, and shall specify in such notice a time or times, not less than 20 days nor more than 30 days from the date thereof, when the owners of said real estate shall pay their taxes and the owners charged with such tax shall pay the same. The treasurer shall keep an accurate account of the amounts received, the name of the person from whom received, and the lot, tract or parcel of land upon which each payment is made. The book containing the account so kept shall, at all times when required, be open for the inspection of the board of trustees and the taxpayers.

(3) At the expiration of 30 days from the date of said notice the village treasurer shall deliver to the clerk of the village a certified list of the lots, pieces or tracts of land in said village upon which any such tax remains unpaid, with the amount of such delinquent tax upon each of said lots or parcels of land, and if such list be returned to said village clerk before the completion of the tax roll of said village for the same year the said clerk shall add the said delinquent taxes, including a penalty of 6 per cent interest on the amounts due from the expiration of the said 30 days until said tax roll is delivered to the village treasurer on the third Monday in December, to said tax roll opposite to the description of the proper lots, pieces or parcels of land therein, and the said delinquent taxes shall be collected with and in the same manner as the village taxes. If such list shall be returned to the village clerk after the completion of the tax roll and before the village treasurer's return of delinquent taxes he shall deliver said list to the said treasurer, who shall collect the same with the other taxes in said village, and add what remains uncollected of said taxes to his list of delinquent taxes returned to the county treasurer, who shall collect the same or sell the lots, pieces or parcels of land aforesaid for such delinquent taxes; and all proceedings in relation thereto shall be the same in all respects as in the case of land sold for other delinquent taxes. Every county treasurer who shall collect or receive any moneys on account of such delinquent taxes shall pay the same to the treasurer of the proper village and take duplicate receipts therefor, and file one of said receipts with the clerk of his county; provided, however, that said 6 per cent interest penalty shall not be added to such delinquent taxes in any case where certificates or special improvement bonds are issued covering such assessment pursuant to subsection (4).

(4) Whenever a contract is let for the construction or improvement of streets, sidewalks, gutters, ornamental lighting systems or alleys, or the construction, laying or improvement of water mains, sanitary, surface or storm water sewers or drains in any incorporated village, and the work covered by such contract is to be paid wholly or in part by special assessment upon the property to be benefited by the improvement, such contract may provide that the part of the total cost of the improvement to be defrayed by such special assessment may be paid with special assessment certificates or bonds issued for such improvement or with the proceeds of the sale of such bonds, or both, in similar manner and subject to the provisions of sections 62.20 and 62.21 and 66.54, as they shall be from time to time amended. In villages where there is no official paper the notice prescribed by section 62.21 shall be published in some newspaper published in said village, or, if there be no such newspaper, by posting said notice in 3 public places in said village.

(5) The provisions of sections 75.56, 75.57, 75.58, 75.59 and 75.61, relating to reassessment of special assessments, shall apply to villages. [1931 c. 79 s. 7; 1943 c. 193, 275; 1943 c. 553 s. 8]

61.42 **Water and sewer mains before paving; special assessments; tax lien.** (1) Whenever the village board shall have ordered the grading, paving, macadamizing or other improvement of any street or part of any street, it may cause water and sewer mains, or either of them, to be laid in any portion of such street so to be improved, after an estimate

of the cost thereof, made by an engineer employed by the village, shall be on file with the clerk. Upon the completion of such work the clerk shall file in his office a correct and certified statement of the total cost of such work and thereupon the board may levy a tax for the whole or any part of such cost, exclusive of the cost of street and alley crossings, upon the property adjoining such portion of such street, proportioned to the frontage; provided, however, that in the case of surface or storm sewers the board may levy a tax for the whole or any part of such cost upon all of the lots, tracts and parcels of land in said village benefited thereby in proportion to the amount of such benefits as determined by said village board. No assessment shall exceed the benefit. Prior to the levy of the tax a public hearing shall be held thereon, notice of which shall be posted in at least three public places not less than seven days in advance.

(2) Whenever the board shall have ordered the grading, paving, macadamizing or other improvement of any street or part of any street, it may also order water service pipes and house drains or either of them to be laid in such portion of such street at the cost of the property fronting on such street, from the respective mains to the curb line of each side thereof at intervals of not less than twenty feet. The village clerk shall thereupon give notice to the owner of the property adjoining such portion of such street, by publication thereof in some newspaper published in said village for one week or if there be no newspaper published in said village then a copy of such notice shall be posted in three public places in said village requiring them to do such work opposite their respective pieces of land according to a plan and specifications therefor on file in the office of the village clerk; if any such owner shall refuse or neglect to do said work within ten days after such publication or fifteen days after the posting of such notice, the village board may cause the same to be done. Upon the completion of said work the clerk shall file in his office a correct and certified statement of the cost of such work done opposite each piece of property fronting on said portion of said street and thereupon the board may levy a tax for the whole or any part of such cost upon the respective pieces of property adjoining said portion of said street.

(3) Every such tax levied pursuant to this section shall be a lien upon said respective pieces of land from the date of ordering such work and shall be entered by the clerk in the tax roll as a special tax against said respective pieces of property and collected in all respects like other village taxes upon real estate; provided, however, that the provisions of subsection (4) of section 61.41 shall extend to all work provided for in this section.

(4) Whenever a sewer or water main, as the case may be, has been laid in the street abutting one side of any corner parcel of land having a frontage on two streets owned by the same owner or owners, a deduction shall be made in making the assessment for the laying of the sewer or water main, as the case may be, in the street abutting the other side thereof, equal to at least one-third of the aggregate assessment of laying such sewer or water main, as the case may be, on both sides of such parcel of land; in computing such deduction, however, allowance shall be made for a frontage on the short side of said parcel of land of not to exceed fifty feet and on the long side of not to exceed one hundred and thirty feet and for a total frontage of not to exceed one hundred and sixty feet. [1933 c. 187 s. 4]

Note: Village board may make sewer assessments and levy special taxes pursuant to statute not providing for notice, although lot owner must be given actual or constructive notice of special assessment at some time during proceedings. Action to cancel tax certificate, based on special sewer assessments, brought over year after certificate was sold, held barred by 75.61. *Armory R. Co. v. Olsen*, 210 W 281, 246 NW 513.

61.43 Building and repair of sidewalks. (1) **POWER OF BOARD; NOTICE.** The village board of any village are hereby authorized, when in its opinion that any sidewalk in said village requires repairing, rebuilding or that a new sidewalk should be constructed, may without a petition or request direct the street commissioner or committee on streets to notify the owner of the lot or tract of land abutting on said sidewalk, required to be repaired, rebuilt or a new sidewalk to be constructed, to repair the same within twenty-four hours from the date of the service of the notice, or build a new sidewalk or rebuild the sidewalk within twenty days from the date of the service of the notice. The notice shall specify the materials to be used, how it should be constructed and the width. In case however the board has adopted an ordinance describing the materials used in the building and construction and width of sidewalks in such village, it shall be sufficient to mention the ordinance in such notice, and the said sidewalk shall be repaired, rebuilt or a new sidewalk built as provided in said ordinance. Said notice may be served on the owner of the lot or parcel of land abutting on the line of said sidewalk and bounded thereby, by delivering to or leaving at his residence, if residing within the village, a printed or written notice requiring such person therein named to build such new sidewalk, or rebuild or repair the same as the case may be, to the approval of the street commissioner, or committee on streets, and in the manner directed by said village board along the line of the lot or

land so bounded. In case the owner is not a resident of the village or is a corporation, company or society of persons, the notice may be served on any agent or officer of such persons, corporation, company or society of persons, or the person having charge of such property within the village, in case there is no such person, agent or officer residing within the village, such notice may be posted in three public places in said village, or published once in the official paper of said village, if any be published therein.

(2) **WHEN WORK DONE BY VILLAGE.** In case any person, corporation, company or society of persons shall fail to build, rebuild or repair such sidewalk within the time required by said notice, the street commissioner or committee on streets shall have authority to repair, rebuild or build the said sidewalk and certify and return to the village clerk the total cost of such work, and the cost of such work done opposite each separately owned piece of land fronting on such street or portion thereof, which amount shall be a lien on such piece of land from the date of ordering such work.

(3) **TAXES TO DEFRAY EXPENSE.** On the return of the street commissioner or committee on streets showing that he has repaired, rebuilt or built anew any sidewalk, and the persons liable therefor have not paid the cost or expense thereof, the same shall be entered and collected the same as other village taxes, and returned in the delinquent tax list for unpaid taxes, and collection thereof enforced in the same manner as other unpaid real estate taxes, and with like interest and penalties. If from any cause whatever, such tax shall not be entered on such tax roll the same may be placed on any tax roll thereafter. The village board may also give a separate certificate of the amount so assessed upon each such piece of land, and may deliver such certificate to the contractor in part payment of his work, and the same shall entitle the contractor to demand and receive the amount thereof when such assessment shall be collected by the proper village or county officers, with any interest that shall have been collected therewith.

(4) **WHERE COST OF REPAIR DOES NOT EXCEED TEN DOLLARS.** Whenever any defect in any street, sidewalk or gutter, is such as to require immediate repair, and the cost of such repair will not exceed ten dollars, it shall be the duty of the street commissioner forthwith to cause such repair to be made, and the cost thereof shall be audited by the trustees of such village and paid out of the general fund.

(5) **ONE-HALF OF COST MAY BE PAID BY VILLAGE; WHEN.** The village board of any village may, in its discretion, when authorized so to do by a majority vote of the electors at any village election and until such authority is, in like manner, revoked, direct that a part, not exceeding one-half of the cost of building, rebuilding or repairing any sidewalk, shall be paid by such village out of the general fund.

61.44 Street sprinkling; snow and ice removal. (1) The provisions of subsection (9) of section 62.16 shall apply to villages. In carrying out the provisions of this subsection the following words used therein shall, unless the context otherwise requires, have the following meaning:

- (a) "Council" means village board.
- (b) "Board of public works" means such village officer or committee as shall by order of the village board have charge of said work.
- (c) "City" means village.

(2) The village board may require any street railway, interurban railway, or railroad company, to cause its roadbed within the limits of said village, to a distance of one foot outside each rail, to be sprinkled with water or to be oiled, in such manner as to prevent dust from arising therefrom. [1941 c. 12]

61.45 Sanitary sewers, drains and sewage plants. (1) Sanitary sewers and drains and sewage disposal plants may be constructed by villages as hereinafter provided.

(2) It shall be lawful for the president and trustees of any village whenever they shall deem it necessary for the public health, to cause sewers and drains to be made in any part of such village, and to order and direct the construction of either of the same, and to alter, repair or mend any sewer or drain heretofore, or hereafter, constructed within said village and to cause a main sewer for the purpose of an outlet for the branch sewers and drains to be constructed without the limits of said village when necessary; and to cause a sewage disposal plant to be constructed within, or without, the limits of the village pursuant to the provisions of sections 62.18, 62.20 and 62.21, which shall govern the construction, alteration and repair of sewers and drains in villages to the same extent as if villages were cities so far as said provisions are applicable and powers and duties conferred therein upon the common council and board of public works shall be exercised by the president and trustees and those conferred upon the mayor by the president and those conferred upon the city clerk or comptroller by the village clerk. In villages in which no newspaper is published notices required by said sections to be published in the official paper of the city shall be published in like manner in some newspaper published in the county in which the village or some part thereof is located.

(3) When any village has constructed a sewage disposal plant, the president and trustees of such village may contract with any county, sanitary district or other municipality that such village receive, treat and dispose of the sewage emanating from parks of such county, or from such sanitary district or other municipality.

(4) The provisions of this section shall not affect or repeal any law authorizing the construction of sanitary sewers, drains or sewage plants or the levying of special assessments therefor. [1939 c. 128, 191; 43.08 (2); 1941 c. 79]

Note: By its amendment by ch. 691, laws of 1919, sec. 61.45, relating to sewer construction and sewer assessments in villages, is construed, in view of its language and the text of the note appended to the amending bill by the revisor of statutes, as adopting for villages the general law on the subject of sewer construction and sewer assessments in cities, contained in ch. 62; and the fact that the law is referred to also in terms of the sections of the statutes in which it is found is not sufficient to make it an adoption of only one particular statute. *George Williams College v. Williams Bay*, 242 W 311, 7 NW (2d) 891.

Ch. 482, laws of 1929, in amending 61.45, relating to sewer construction and sewer assessments in villages, merely by adding 62.21 as one of the statutory sections embodied in 61.45 by reference, did not change the existing substantive law on the subject as to villages other than to add 62.21 thereto. *George Williams College v. Williams Bay*, 242 W 311, 7 NW (2d) 891.

61.455 [Repealed by 1933 c. 187 s. 1]

61.455 **Storm sewers and drains.** (1) Storm sewers and storm sewer drains may be constructed by villages pursuant to sections 62.18, 62.20 and 62.21 which shall govern such construction to the same extent as if villages were cities, so far as said sections are applicable. The powers and duties conferred by said sections on the common council and board of public works shall be exercised by the president and trustees of the village, those conferred on the mayor shall be exercised by the president, and those conferred on the city clerk or comptroller shall be exercised by the village clerk. Such construction may, in the alternative, be had as provided in subsections (2) to (5).

(2) At any time after the village board has determined that public health and general welfare require the construction of storm sewers, it may divide the village into storm sewer districts, and in addition to the other methods provided by law, may construct storm sewers and house drains as provided in subsections (2), (3), (4) and (5) of this section.

(3) Before ordering any such work to be done, there shall be filed with the village clerk plans and specifications for the same, and the village board may thereupon cause the work to be done. At any time after the filing of plans and specifications for such work, the village board shall thereupon view the premises and determine the entire cost of the contemplated work and the amount that should be assessed under the provisions of subsections (2), (3), (4) and (5) of this section to each lot and parcel of land by reason of such work and shall file with the village clerk a report of their determination.

(4) The village board is authorized thereupon to levy special taxes for the construction of such sewers and house drains as follows:

(a) The cost of constructing each house drain shall be assessed against the lot or parcel of land served thereby.

(b) All lots and parcels of land fronting or abutting on any sewer connected or designed to be connected with house drains shall be assessed at an even rate not exceeding one dollar and fifty cents and not less than fifty cents per lineal foot for the whole frontage of each lot and parcel of land fronting or abutting on each side of such sewer, except that in making such assessments, corner lots and parcels of land having at least two sides which abut on such sewer shall be subject to such deduction, and irregular lots and parcels of land shall be subject to such addition or deduction, as the village board shall determine is reasonable and just in each case.

(c) All of the balance of the cost of constructing such sewers may be assessed against all lots and parcels of land in the district in proportion to area, or such balance may be paid out of the proceeds of bonds issued against such district in the manner prescribed in section 62.185, the provisions of which are hereby made applicable to such sewers, drains and storm sewer districts.

(d) The words "lots and parcels of land" as used in subsections (2), (3), (4) and (5) of this section shall not include public roads, streets or alleys.

(5) The provisions of section 61.41 shall apply to all special taxes levied pursuant to subsection (4) of this section.

(6) The provisions of this section shall not affect or repeal any law authorizing the construction of storm sewers or storm sewer drains or the levying of special assessments therefor. [1939 c. 128; 1941 c. 79]

61.46 **Village taxes.** (1) **GENERAL; LIMITATION.** The village board shall, on or before the fifteenth day of December in each year, by resolution to be entered of record, determine the amount of corporation taxes to be levied and assessed on the taxable property in such village for the current year, which shall not exceed in any one year two per centum of the assessed valuation of such property. Before levying any tax for any

specified purpose, exceeding one per centum of the assessed valuation aforesaid, the village board shall, and in all other cases may in its discretion, submit the question of levying the same to the village electors at any general or special election by giving ten days' notice thereof prior to such election by publication in a newspaper published in the village, if any, and if there be none, then by posting notices in three public places in said village, setting forth in such notices the object and purposes for which such taxes are to be raised and the amount of the proposed tax.

(2) **HIGHWAY.** The village board shall, at the same time and in like manner, determine the amount, if any, of highway tax to be levied and collected in such village for the current year, which shall not exceed in any one year one-tenth of one per centum on the assessed valuation of such property. Such highway tax shall thereafter be assessed and collected by the village treasurer at the time and in the manner provided for the collection of other village taxes; and such highway tax shall be kept as a separate fund, and shall be expended under the direction of the village board in the improvement of the streets, highways and bridges in said village. [1939 c. 107]

61.47 Street and sidewalk improvement tax. For the purpose of improving the streets, making and improving sidewalks and crosswalks and setting out shade and ornamental trees in such village; the board may determine and fix an amount not exceeding seven mills nor less than one mill on the dollar of the assessed valuation of property in said village, in addition to the highway tax provided for in subsection (2) of section 61.46, and the amount fixed shall be levied, certified and collected as provided in these statutes. All moneys so collected shall be paid to the village treasurer and expended under the direction of the board of trustees.

61.48 For highways leading into village. Such board may also expend and lay out on the highways, or any of them, leading into such village, not exceeding two miles from the boundary line thereof, not to exceed one-third the whole amount collected for highway purposes in any one year.

61.49 General law applicable. Chapter 74 of the statutes, entitled "Collection of Taxes," so far as the same is applicable, is hereby declared to apply to and govern the collection of taxes in all villages.

61.50 Ordinances; contracts; other instruments; how executed. (1) **PUBLICATION OF ORDINANCES.** Every contract, conveyance, commission, license or other written instrument shall be executed on the part of the village by the president and clerk, sealed with corporate seal, and in pursuance only of authority therefor from the village board. All ordinances and by-laws shall be signed by the president and countersigned by the clerk; and, if any penalty or forfeiture is thereby, in any event imposed, shall, before taking effect, be published one week at least in some newspaper having a general circulation in said village or the village board may, in lieu of the printing thereof, have copies of said ordinances and by-laws posted in at least three public places in said village, and proof thereof filed and recorded by the village clerk one week before the same shall take effect. Every ordinance or by-law posted, filed and recorded prior to June 16, 1929, as herein provided, is hereby validated.

(2) **PROOF OF PUBLICATION.** Proof of such publication to be by the affidavit of the printer or foreman in the office of such newspaper, or of such posting by the affidavit of the party posting the same, which shall be attached to, filed and recorded with such ordinance or by-law, which, when done such record to be prima facie evidence of the facts therein stated. All ordinances shall be suitably entitled and in this style: "The village board of . . . do ordain as follows." All authorized ordinances and by-laws shall have the force of law and remain in force until repealed.

(3) **REVISION OF ORDINANCES; PUBLICATION.** Whenever the governing body of any village shall, by resolution, authorize the preparation of a code consolidating and revising the general ordinances of such village, and after the adoption and passage of any such code, the same may be published in book form and such publication shall be sufficient even though the ordinances thus consolidated and revised were not published in accordance with the provisions of subsection (1) of this section; a copy of such code shall be kept on file and open for public inspection in the office of the village clerk. [1933 c. 187 s. 4; 1933 c. 436 s. 18; 1937 c. 432; 1939 c. 107]

Revisor's Note, 1933: The last sentence of 61.50 (1) was added by chapter 177, Laws 1929, effective on June 16th. (Bill No. 184 S, s. 18)

Note: The words "printed in such village," 61.50, requiring the publication of ordinances "in some newspaper printed in such village," are not synonymous with "published," and therefore, where no newspaper was printed in the village, the posting of an ordinance in three public places was sufficient. State ex rel. Newman v. Pagels, 212 W 475, 250 NW 430.

61.51 Auditing accounts. (1) No account or demand against the village shall be paid until it has been audited and allowed and an order drawn on the treasurer there-

for. Every such account shall be made out in items. After auditing, which, at the option of the board, may be done by the village manager or such other officer as may be designated, the board shall cause to be indorsed by the clerk, over his hand on each account, the words "allowed" or "disallowed," as the fact is, adding the amount allowed, if any, and specifying the items or parts of items disallowed, if disallowed in part only. The minutes of the proceedings of the board shall show to whom and for what purpose every such account was allowed and the amount. Every such account or demand allowed in whole or in part shall be filed by the clerk, and those of each year consecutively numbered, and have indorsed the number of the order on the treasurer issued in payment, and the clerk shall take a receipt thereon for such order.

(2) Payment of regular wages or salaries may be by pay roll, verified by the proper official, and filed in time for payment on the regular pay day and such payments heretofore made are validated.

(3) The fiscal year in each village shall be the calendar year. [1939 c. 107; 1941 c. 61; 1945 c. 43]

Note: In an action against a village for equitable relief by abatement of a nuisance by injunction plaintiffs were not required first to file a claim with the village, although the action also included a demand for damages. *Hasslinger v. Hartland*, 234 W 201, 290 NW 647.

61.52 [Renumbered section 61.195 by 1939 c. 152]

61.53 [Renumbered section 60.225 by 1943 c. 66]

61.54 Bids on improvements. (1) **WHEN VILLAGE MAY REJECT AND PERFORM WORK.** Whenever the village board of any village, shall, after notice duly given, receive bids for the grading of streets, construction of sewers, laying of pavements, sprinkling and cleaning of streets, or for any other public work or improvement, or for the furnishing of materials therefor, be of the opinion that such bids are fraudulent, collusive or greater in amount than the fair reasonable value of the work to be done or materials to be furnished, said village board may, by resolution and by the vote of two-thirds of its members, direct, and determine that the bids so received shall be rejected and that the work to be done, and materials to be furnished shall be performed and furnished by said village directly, and under the direction and supervision of the village board.

(2) **POWER OF BOARD.** Whenever the village board of any village shall determine to carry on any public work or construct any improvement under the provisions of this section it shall have the power to purchase and secure all necessary and proper tools and equipment with which to perform the same.

(3) **SPECIAL ASSESSMENT NOT TO EXCEED LOWEST BID.** The cost and expense of all work done and all materials furnished by any village under this section shall be collected in the same manner as if done and furnished by any other person under contract with said village, and the power to levy special assessments to defray such cost and expense shall be the same as is now, or as hereafter may be provided by law; provided, however, that the amounts assessed hereunder against any lands or interests specially benefited or otherwise liable therefor shall in no case exceed the amounts which would have been assessed against the same had the lowest bid so received as aforesaid been accepted, and that so much of such cost and expense as shall be in excess of such lowest bid shall be borne by said village at large.

61.55 Contracts involving over five hundred dollars; how let. All contracts for the performance of any work or the purchase of any materials, in any such village, exceeding five hundred dollars, shall be let by the village board to the lowest bidder in such manner as they may prescribe.

Note: A judgment, in an action to enjoin the execution of a contract between a village and a contractor on the ground that it had not been let to the lowest bidder, that a referendum gave validity to the contract, is res adjudicata as to such question in an action against the village by a holder of mortgage certificates, who had obtained the certificates from the contractor, who had received them in payment for a water system purchased by the village under the contract. *Morris v. Ellis*, 221 W 307, 266 NW 921. If the article to be purchased is offered by more than one seller, the statute must be complied with. *Victoria v. Village of Muscoda*, 228 W 455, 279 NW 663.

[61.56 Stats. 1945 renumbered section 61.187 (1) by 1947 c. 388]

[61.57 Stats. 1945 renumbered section 61.187 (2) by 1947 c. 388]

[61.58 Stats. 1945 renumbered section 61.189 by 1947 c. 388]

61.59 [Repealed by 1945 c. 505]

61.60 [Repealed by 1945 c. 505]

61.61 Village orders; borrowing money. No village or any officer thereof shall have power to issue any time or negotiable order, or borrow money, except in the manner and for the purposes expressly declared by statute.

61.62 Recognizance taken by police. (1) In all villages having a police department when a person is arrested and the offense charged is for the violation of any ordinance, rule, regulation, resolution or by-law of any village, the chief of such police department may take from the person arrested a recognizance, with sufficient sureties or his own personal recognizance upon depositing with such officer the amount thereof in money, for his appearance at the court having cognizance of the offense.

(2) In every village, when a person is arrested and a recognizance or bail bond or the amount thereof in money is furnished for his appearance and the magistrate or court before whom the accused is required to appear shall declare such recognizance or bail bond or money deposited in lieu of bail forfeited, so much of the same as is in excess of the amount necessary to satisfy the judgment by the payment of money shall be paid into the village treasury.

61.63 Forfeitures and penalties. (1) **COLLECTION OF.** (a) All fines, forfeitures and penalties imposed by any ordinance, resolution or by-law of the village board may be collected in an action in the name of the village before the justice of the peace, to be commenced by warrant and prosecuted in the same manner as actions of tort before justices of the peace; but the marshal or constable may arrest the offender in all cases without warrant when he knows of such violation. The affidavit for such warrant shall be the complaint, and be sufficient if it allege that the defendant is indebted to the plaintiff in the amount of such fine, penalty or forfeiture sued for, claiming the highest sum thereof according to the provisions of such ordinance, resolution or by-law, specifying the same by section, chapter, title or otherwise with sufficient plainness to identify the same, with a demand for judgment for the amount thereof.

(b) Actions to punish violation of an ordinance shall be in the name of the village. In case of conviction the court shall enter judgment against the defendant for the costs of prosecution, and for the fine, penalty or forfeiture, if any, and that he be imprisoned in the county jail or house of correction for such time, not exceeding 90 days, as the court shall deem fit, unless the judgment is sooner paid.

(2) **JUDGMENT, COMMITMENT.** Judgment shall be given, if for the plaintiff, for the amount of fine, penalty or forfeiture fixed by such ordinance, resolution or by-law or such part thereof, if a discretion be given, as the court shall deem proportionate to the offense, together with the costs of suit; and the court shall, in all cases, further adjudge and order that in default of payment thereof the defendant be committed to the common jail of such county for such time, not exceeding 90 days, as the court shall deem fit. If such payment be not forthwith made the justice shall make out a commitment, stating the amount of judgment and costs and the time for which committed, in the usual form of commitments by justices of the peace. Every person so committed shall be received and committed to prison by the keeper of the county jail, and kept at the expense of such village until the expiration of the time; but he shall be released by order of the justice on payment to him of such fine and costs, or by due course of law; provided, that in counties maintaining a workhouse such defendant may be committed to the workhouse instead of to the county jail of said county, without expense to the village from which such defendant was committed.

(3) **APPEAL.** (a) Appeals in actions to recover fines, forfeitures and penalties imposed by any ordinance, resolution or by-law of the village board may be taken to the circuit court in the same manner as from judgments in civil actions by justices of the peace, except that if taken by the defendant he shall, as a part thereof, execute a bond to the village with surety, to be approved by such justice, conditioned that if judgment be affirmed in whole or in part he will pay the same and all costs and damages awarded against him on such appeal; and in case such judgment shall be affirmed in whole or in part execution may issue against both defendant and his surety. Upon perfection of such appeal the defendant shall be discharged from custody. In all actions before any justice of the peace of villages lying in two or more counties appeals may be taken to the circuit court of the county wherein the offense was committed; and all commitments shall be made to the jail of such county.

(b) Appeals in actions to punish violation of a village ordinance may be taken in the manner of appeals from justice court in actions in which the state is plaintiff, except that if appeal from the trial court directly to the supreme court may be had, the defendant may appeal only to that court.

(4) **FINES TO GO TO VILLAGE TREASURY.** All fines, forfeitures and penalties recovered for the violation of any ordinance, rule, regulation, resolution or by-law of any such village and all moneys paid for licenses and permits shall be paid into the village treasury for the use of such village. The justice of the peace shall report and pay into the treasury, quarterly, all moneys collected by him belonging to such village, which report shall be verified by his affidavit and filed in the office of the treasurer; and he shall be entitled to

duplicate receipts for such moneys, one of which he shall take and file with the village clerk. [1939 c. 107; 1947 c. 539, 614]

[61.64 Stats. 1945 renumbered section 61.15 by 1947 c. 388]

61.65 [Repealed by 1929 c. 262 s. 10]

61.65 Police and fire departments; pension funds. (1) Every village having a population of 5,000 or more, according to the last federal census, shall have a police department, and every village having a population of 5,500 or more shall have a fire department, with chiefs and subordinates; a board of police and fire commissioners; a police pension fund and a firemen's pension fund. All matters pertaining to the board and to appointments, promotions, suspensions, removals, dismissals, reemployment, compensation, rest days, sources of pension funds, control, management and administration of pension funds, eligibility for and payment of pensions, exemptions, organization and supervision of departments, contracts and audits, shall be administered, regulated and otherwise governed by the provisions of section 62.13 and amendments thereto, in so far as the same pertains to cities of the second or third class.

(2) In the carrying out of the provisions of this section, the following words, whenever used in said section 62.13, shall, unless the context otherwise requires, have the following meaning:

- (a) "Mayor" means village president.
- (b) "Comptroller" means village clerk.
- (c) "City Treasurer" means village treasurer.
- (d) "Council" means village board.
- (e) "City" means village.

(3) When the amount in the firemen's pension fund shall be fifty thousand dollars, only the income therefrom, with the other revenues of said fund, shall be available for the payment of pensions.

(4) Persons who are members of the police departments in villages of 5,000 or more, and members of fire departments in villages of 5,500 or more, according to the last federal census, shall automatically and without examination, become members of the police and fire departments of such villages under this section and shall be entitled to pension benefits, in accordance with the provisions of this section, for all prior service rendered.

(5) The provisions of this section shall be construed as an enactment of state-wide concern for the purpose of providing a uniform regulation of police and fire departments.

(6) No person who, prior to January 1, 1948, had not contributed to a police pension fund established pursuant to this section shall be permitted to contribute to such fund or become a member thereof on or after such date; nor shall he or his widow, child or dependent parent be, or become, entitled to receive any benefit from such fund. Any person who, after December 31, 1947, becomes a member of the police department in a village having a population of 5,000 or more according to the last federal census, or who was a member of such department on said date, but who, in each such case had not, on or before such date, properly contributed to a police pension fund established pursuant to this section, and who can otherwise qualify, shall be, or become, a participating employe under sections 66.90 to 66.919. If any such participating employe shall be entitled to a prior service credit, he shall be given such credit at the 2 rate unless the municipality by which he is employed shall have elected to become a participating municipality under said section, in which case the rate elected by such municipality shall be used.

(7) No person who, prior to January 1, 1948, had not contributed to a firemen's pension fund established pursuant to this section, shall be permitted to contribute to such fund or become a member thereof on or after such date; nor shall he or his widow, child or dependent parent be, or become, entitled to receive any benefit from such fund. Any person who, after December 31, 1947, becomes a member of the fire department in a village having a population of 5,500 or more according to the last federal census, or who was a member of such department on said date, but who, in each such case had not, on or before such date, properly contributed to a fireman's pension fund established pursuant to this section, and who can otherwise qualify, shall be, or become, a participating employe under sections 66.90 to 66.919. If any such participating employe shall be entitled to a prior service credit, he shall be given such credit at the 2 rate unless the municipality by which he is employed shall have elected to become a participating municipality under said section, in which case the rate elected by such municipality shall be used. [1937 c. 148; 1939 c. 513 s. 17; 1941 c. 227; 1947 c. 206, 362]

Note: Section 61.65, Stats. 1937, is constitutional. *Barth v. Shorewood*, 229 W 151, 282 NW 89.

61.66 [Repealed by 1939 c. 476]

61.66 Shade trees in Milwaukee county villages. The village board of any village in any county having a population of one hundred fifty thousand or more may direct, regu-

late and require the planting and preserving of shade trees and shrubs and the caring for the same in and along the public streets and on the public grounds of said village. It may also order shade trees to be set out and cared for along any street or portion thereof at the cost of the property fronting on such street; notice requiring said work to be done shall first be given, and upon the refusal of such owner to do such work, the village board may then cause the same to be done as herein provided, and may levy a tax for the whole or any part of the cost thereof upon the respective pieces of property adjoining said portion of said street, and every tax shall be entered by the clerk and collected, in the manner prescribed in section 61.42 subsections (2) and (3) of the statutes. [1943 c. 334 s. 7]

61.68 [Repealed by 1943 c. 205; 1943 c. 491 s. 7]

61.69 [Renumbered section 61.36 by 1943 c. 205]

61.70 **Waterworks.** (1) The village board may lay water mains and levy special assessments therefor in the manner provided by section 62.16, except that it shall not be necessary to post notices along the street, and the powers and duties conferred therein upon the common council and board of public works shall be exercised by the village board, and those conferred upon the clerk or comptroller, by the village clerk. In villages in which no newspaper is published notices required by said section to be published in the official paper of the city shall be published in like manner in some newspaper published in the county in which the village or some part thereof is situated. When the village board shall have made an assessment under the power conferred by said subsection upon the board of public works, and a hearing had thereon in the manner therein provided, the determination of the village board upon such hearing shall be the final determination and a further hearing shall not be required.

(2) Where the village owns or operates waterworks, the village board may contract to furnish water for fire, mechanical and domestic use beyond the village limits and to lay the necessary pipes, mains and conduits for that purpose. [1933 c. 187 s. 3]

61.71 **Consolidated plats; numbering of buildings.** The village board may cause a revised and consolidated plat of the lots and blocks of the village to be recorded in the office of the register of deeds, and may compel the owners and occupants of all buildings within the village to number the same in such manner as the board may from time to time prescribe. [1933 c. 187 s. 3]

61.72 **Pest and disease prevention.** When a village board shall appropriate money for the control of insect pests, weeds, or plant or animal diseases, the state department of agriculture upon request of the village board shall co-operate with the village and shall provide technical assistance and direction for the expenditure of such funds. [1933 c. 187 s. 3; 1943 c. 229]