

CHAPTER 61

VILLAGES

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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 ss. 5.64(2) and 10.02, 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 remains 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, and shall also file with the register of deeds one copy and with the secretary of state 4 copies of 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. The secretary of state shall forward 2 copies of the certificate to the highway commission and one to the department of revenue.

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 observe the requirements of s. 5.15 (intro.) to (2) for wards, and shall fix the number and boundary of the aldermanic districts 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 aldermanic district.

(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 4 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 4 certified copies of a plat thereof; and thereupon a certificate of incorporation shall be issued to such city by the secretary of state. Two copies of the certification and plat shall be forwarded by the secretary of state to the highway commission and one copy to the department of revenue. 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.

(4) Any village incorporated after the enactment of ss. 66.013 to 66.019 [August, 1959] may not become a city unless it meets the standards for incorporation in ss. 66.015 and 66.016.

History: 1971 c. 304, 336.

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: A president, a clerk, a treasurer, an assessor if election of the assessor is provided and a constable. In villages in counties having a population of 500,000 or more, the officers named shall be elected for a term of 2 years on the first Tuesday of April of each even-numbered year. Any other officers shall be appointed annually by the village board at their first meeting after the first Tuesday in April unless the board otherwise provides. 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 appoints a person to act as such clerk. No assessor shall be elected or appointed if the village has come within the jurisdiction of a county assessor under s. 70.99.

History: 1973 c. 90.

61.191 Population, use of federal census.

Except as provided in s. 61.189 (3), where the census of a village is required the last federal census, including a special federal census, if any, shall be used.

61.195 Discontinuance and change of term of offices.

Any village may proceed pursuant to s. 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, to consolidate any such office or to change the term of office of members of the village board.

61.197 Selection of officers. (1) Officers other than members of the village board and municipal justices except as provided in s. 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.

(f) A corporation may be appointed as the village assessor. The corporation so appointed shall designate the person responsible for the assessment. The designee shall file the official oath under s. 19.01, and sign the affidavit of the assessor attached to the assessment roll under s. 70.49. No person may be designated by any corporation unless he has been granted the appropriate certification under s. 73.03 (2).

(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.

History: 1973 c. 90.

61.20 Election of trustees; terms; number.

(1) Villages shall have 6 trustees, except as provided otherwise in sub. (3), whose term of

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office shall be 2 years, 3 of whom shall be elected each year.

(3) Villages having a population of 350 or less shall have 2 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 2 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.

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 s. 61.19 shall within 5 days after such election or appointment or notice thereof, when so required to be given, take and file the official oath.

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 deems any bond insufficient they may require an additional bond to be executed and filed in a sum and within a time not less than 10 days, to be fixed by them.

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 shall commence on the 3rd 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.

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, bylaws, regulations, commissions, licenses and permits adopted or authorized by the board and all orders drawn on the treasury except as provided by ss. 66.042 and 66.044. 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. He shall have charge of the village jail, which he shall conduct in the manner provided in s. 62.09 (13) (c); but he may delegate this duty to the constable or any police officer of the village.

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 10 days after election or appointment and qualification, a certified statement of the name and term for which elected or appointed, of the president, clerk, treasurer 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 municipal justice, chief of police, 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, bylaws, 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 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 bylaws, 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 bylaws. 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 prescribes, and such other books as the board directs.

(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.

Cross Reference: For an alternative system of approving claims, see 66 044.

61.26 Treasurer. (1) The village treasurer shall execute and file an official bond which may be furnished by a surety company as provided by s. 632.17 (2). It shall be the treasurer's duty to receive all moneys belonging or accruing to the village from any source whatever or directed by law to be paid to the treasurer; 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 s. 34.01 (6), 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 the office; to render an account and settlement of all 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 the successor when qualified all books of account, papers and property of the office and all money on hand 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 s. 70.67 of the statutes and take receipt therefor, which the treasurer shall file in the office of village clerk. On receipt of the tax

roll the treasurer 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.

(2) The village treasurer shall be required to perform those duties as conferred upon town treasurers in s. 60.49 (6) and (6m).

History: 1971 c. 154; 1975 c. 375 s. 44; 1975 c. 421.

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.

61.27 Assessor. In all villages not assessed by a county assessor the assessor shall take and file the official oath. The assessor shall begin under s. 70.10 to make an assessment of all of the property in the village liable to taxation, as prescribed by law. The assessor shall return the assessment roll to the village clerk at the same time and in the same manner in which town assessors are required to do. The assessor's compensation shall be fixed by the village board. Commencing with the 1977 elections and appointments made on or after January 1, 1977, no person may assume the office of village assessor unless certified by the department of revenue under s. 73.03 (2) (b) as qualified to perform the functions of the office of assessor. If a person who has not been so certified is elected to the office, the office shall be vacant and the appointing authority shall fill the vacancy from a list of persons so certified by the department of revenue.

History: 1975 c. 39, 199.

61.28 Marshal. The village marshal shall execute and file an official bond. The marshal 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. The marshal shall obey all lawful written orders of the village board; and arrest with or without process every person found in such village engaged in any disturbance of the peace or violating any law of the state or ordinance of such village. The marshal may command all persons present in such case to

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assist, and if any person, being so commanded, refuses or neglects to render assistance the person shall forfeit not exceeding \$10. The marshal shall be entitled to the same fees allowed to constables for similar services; for other service rendered the village compensation as the board fixes.

History: 1975 c. 41, 199.

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.

61.31 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.

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. A majority of the members-elect shall constitute a quorum, 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 bylaws. 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 bylaws. All meetings shall be open to the public. The board shall keep a record of all its proceedings, and if there is a newspaper published in any village, the board shall cause the proceedings to be published therein as a class 1 notice, under ch. 985. The proceedings for the purpose of publication shall include the substance of every official action taken by the governing body. If there is no newspaper published in the village, the board may cause the proceedings to be published in a newspaper having general circulation in the village, posted in several public places or publicized in some other fashion, in such manner as the board directs. 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 s. 985.08 (4), the fee for any such publication shall not exceed the rates specified in s. 985.08 (1). The board has 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.

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

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 cooperative arrangement for executing any power or duty in order to attain greater economy or efficiency, including joint employment of appointive officers and employees.

(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 acquire real property within or contiguous to the village, by means other than condemnation, for industrial sites; 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 ch. 32.

(3m) ACQUISITION OF EASEMENTS AND PROPERTY RIGHTS. Confirming all powers granted to the village board and in furtherance thereof, the board is expressly authorized to acquire by gift, purchase or condemnation under ch. 32 any and all property rights in lands or waters, including rights of access and use, negative or positive easements, restrictive covenants, covenants running with the land, scenic easements and any rights for use of property of any nature whatsoever, however denominated, which may be lawfully acquired for the benefit of the public or for any public purpose, including the exercise of powers granted under ss. 61.35 and 62.23; and may sell and convey such easements or property rights when no longer needed for public use or protection.

(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 or within which the village is wholly or partially located 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 August 30 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 public instruction 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.

Cross Reference: See 118.105 for control of traffic on school premises.

State statutory enabling legislation is required to authorize enactment of typical rent control ordinances 62 Atty Gen. 276.

Conflicts between state statute and local ordinance in Wisconsin. 1975 WLR 840.

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 [1925] passed by any village board under s. 61.35 shall remain in effect until repealed or amended by such village board.

61.36 Streets, sidewalks, sewers and watercourses. Without limitation because of enumeration, the village board may lay out, open, change, widen or extend roads, streets, alleys, sanitary and storm sewers, water mains, 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.

61.39 Service pipes and sewers. The provisions of s. 62.16 (2), relating to service pipes, and s. 62.18, relating to sewers, shall be applicable to villages.

61.44 Railroads, dust prevention. (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.

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.

(3) **LIMITATION ON LEVIES.** (a) Tax levies of villages in 1975, payable in 1976, and subsequent years, for village purposes, shall not exceed the levy of the prior year by a greater percentage than the percentage of the increase, if any, of the equalized value of all general property assessed in the entire state in 1975 and in subsequent years over the equalized value of all general property assessed in the entire state in 1974 and in subsequent years, respectively, except as provided in pars. (b), (c), (e), (h), (i) and (j) and except that levies for the payment of principal and interest on general obligation bonds and notes issued for an original term of more than one year shall not be affected by this subsection. In determining the levies to be limited by this subsection, an amount equal to principal and interest on general obligation bonds and notes issued for an original term of more than one year included in the prior year's levy shall be excluded from the prior year's levy. In determining levies of 1976 and in subsequent years there shall be an additional exclusion from the prior year's levy of all nonlevy receipts for the retirement of general obligation bonds and notes issued for an original term of more than one year.

(am) If the amount of levy increase determined under sub. (1) is zero, the village may increase its levy by an amount equal to the levy increase it would have been certified if it had had a levy resulting from a tax rate of .25 of a mill.

(b) 1. In addition to the increase allowed under par. (a), a village may increase its 1975 levy for village purposes in the amount that estimated shared taxes distributable to it in 1975 under subch. I of ch. 79 exceed the estimated shared taxes distributable to it in 1976 under subch. I of ch. 79; and may increase its 1976 levy for village purposes in the amount that estimated shared taxes distributable to it in 1976 under subch. I of ch. 79, exceed the estimated shared taxes distributable to it in 1977 under subch. I of ch. 79; and may increase its 1977 levy for village

purposes in the amount that shared taxes distributed to it in 1977 under subch. I of ch. 79 exceed the estimated shared taxes distributable to it in 1978 under subch. I of ch. 79.

2. In addition to the increases allowed under par. (a) and subd. 1, a village may increase its 1976 levy for village purposes in the amount of the aids paid to it in 1975 for aidable local law enforcement costs under subch. III of ch. 79.

(c) If a village's 1976, 1977 or 1978 estimated shared taxes, distributable under subch. I of ch. 79, exceed shared taxes distributed to it in 1975, 1976 or 1977, respectively, under subch. I of ch. 79, the increase allowed under par. (a) for 1975, 1976 and 1977, respectively, shall be reduced by such amount.

(d) The department of revenue shall make the estimates of 1976, 1977 and 1978 shared taxes referred to under pars. (b) 1 and (c). It shall notify each village of its 1976 estimate for the village on or before October 24, 1975; of its 1977 estimate for the village on or before October 22, 1976; and of its 1978 estimate for the village on or before October 21, 1977. The estimate of the department of revenue shall be final.

(dm) 1. The amount of increase allowed under this subsection may be further increased in 1975 by an amount representing the difference between the amount of surplus funds available to reduce the 1975 levy, if the latter is the lesser; in 1976 by an amount representing the difference between the amount of surplus funds used to reduce the levy of 1975 and the amount of surplus funds available to reduce the 1976 levy, if the latter is the lesser; in 1977 by an amount representing the difference between the amount of surplus funds used to reduce the levy of 1976 and the amount of surplus funds available to reduce the 1977 levy, if the latter is the lesser; and in 1978 by an amount representing the difference between the amount of surplus funds used to reduce the levy of 1977 and the amount of surplus funds available to reduce the 1978 levy, if the latter is the lesser.

(e) In any village where the population has increased at a rate greater than the statewide rate of population growth, the amount of increase allowed may be further increased by an amount equal to the previous year's levy divided by the previous year's population multiplied by the difference between the actual village population increase and the amount by which the village's population would have increased if the village's population had increased at the statewide rate of population growth. Population growth shall be measured between the year of levy and the previous year. Population estimates determined under s. 16.96 (2) (c) shall be used in this paragraph.

(em) The amount of the levy allowed under this subsection may be further increased by the following amounts:

1. The amount needed for increased costs of court judgments and out-of-court settlements.

2. The amount needed for increased operating and debt service cost of compliance with written lawful orders by this state, an adjoining state, the United States, or any agency or subdivision thereof, for air and water pollution abatement, solid waste or waste treatment facilities. Copies of such orders shall be filed with the department of revenue.

3. The amount needed for repairing the effects of natural disasters.

4. An amount not to exceed the estimated amount of any decrease in federal general revenue sharing funds from the current year to the following year, if such estimates are available from the U.S. office of federal revenue sharing.

6. The amount needed to defray the unreimbursed costs incurred in assuming ownership of a service or function previously owned and administered by the private sector.

(f) If the village levies taxes in excess of the maximum allowed by this subsection without receiving approval of the electors under par. (g), the excess amount shall be subtracted from subsequent distributions of shared taxes under subch. I of ch. 79 until fully recovered, and the levy shall be reduced by the amount of such excess in determining the maximum allowable levy for the subsequent year.

(g) If the village board desires to increase its tax levy above the limitations specified in this subsection, it shall publish such intent in a class 1 notice under ch. 985 in the official village newspaper. The question of the proposed increase in levy above the limitations specified in this subsection shall be submitted to a referendum at a spring election, general election or special election. If the increase is approved at the referendum, the village may increase its levy above the limitations specified in this subsection and shall notify the department of revenue of such increase, on a form provided by the department.

1. The question presented to the electors shall be in substantially the following form: "Should the village board be authorized to adopt a property tax levy for this year which is in excess of the maximum levy allowed by the state?"

2. The authorization by referendum shall pertain only to the levy next following the referendum.

3. The clerk of the village shall notify the department of revenue of the result of any such referendum no later than 10 days thereafter.

(h) In the case of the county newly assuming functions formerly performed by the village, the

levy of the village shall be reduced by the amount of unreimbursed expenses that the village formerly incurred in performing those functions. In the case of the village newly assuming functions formerly performed by the county, the levy of the village shall be increased by the amount of the unreimbursed expenses that will be incurred in performing those functions.

(i) The amount allowed under this subsection shall not be applied to cause the general property tax rate to exceed the maximum rate otherwise provided by statute.

(j) If the amount of an assessment is lowered pursuant to s. 70.995 (8) (a) so as to require a refund of property taxes, an amount not to exceed the amount of the refund may be added to the next levy. Any amount added to the next levy under this paragraph shall be excluded from the base in determining the following levy. If, pursuant to s. 70.995 (8) (bd), the village receives property taxes in excess of the levy amount allowed under this subsection, an equivalent amount shall be subtracted from the next levy. Any amount subtracted from the next levy under this paragraph may be added to the following levy.

(k) The department of revenue may promulgate rules to ensure the implementation of this subsection.

History: 1973 c. 90, 333; 1975 c. 39, 80, 224.

See note to 60.18, citing 62 Atty Gen 49.

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.

61.50 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 bylaws shall be signed by the president and countersigned by the clerk; and, if any penalty or forfeiture is thereby imposed, shall be published as a class 1 notice, under ch. 985, and shall take effect on the day after its publication or a later

date if expressly prescribed. If there is no newspaper published in the village, the village board may in lieu of newspaper publication have copies of said ordinances and bylaws posted in at least 3 public places in said village, and proof thereof filed and recorded by the village clerk, and the same shall take effect the day after the proof of posting has been filed and recorded, or at a later date if expressly provided in the ordinance or bylaw.

(1m) INDETERMINATE PUBLICATION. When any village ordinance is required by law to be published without express designation therein as to class of notice, it shall be published as a class 1 notice under ch. 985.

(2) ENTITLING OF ORDINANCE. All ordinances shall be suitably entitled and in this style: "The village board of ... do ordain as follows". All authorized ordinances and bylaws shall have the force of law and remain in force until repealed.

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 therefor. 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, or a statement attached thereto, 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 payroll, 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.

(4) Section 62.25 (1) shall be applicable to villages.

Cross Reference: For an alternative system of approving claims, see 66 044.

61.54 Bids on Improvements. (1) **WHEN VILLAGE MAY REJECT AND PERFORM WORK.** Whenever any village board shall, after notice duly given, have received 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, and 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, or if no bids are received, 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 \$5,000; how let; exception. All contracts for public construction, in any such village, exceeding \$5,000, shall be let by the village board to the lowest responsible bidder in accordance with s. 66.29 insofar as said section may be applicable. This provision and s. 144.04 are not mandatory for the repair and reconstruction of public facilities when damage or threatened damage thereto creates an emergency, as determined by resolution of the village board, in which the public health or welfare of the village is endangered. Whenever the village board by majority vote at a regular or special meeting declares that an emergency no longer exists, this exemption no longer applies.

History: 1975 c. 244.

61.56 Alternative letting of contracts. A village board may by ordinance provide that as a complete alternative to the requirements established by sections 61.54 and 61.55 the provisions of section 62.15 shall be applicable to village contracts. The authority vested in the board of public works shall in such case be exercised by the village board, or as delegated by the village board.

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.

61.65 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 s. 62.13 and amendments thereto, insofar as the same pertains to cities of the second or third class. Appointments to the police and fire commission shall not be subject to confirmation by the village board unless required by ordinance.

(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 the person or surviving spouse, 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 subch. I of ch. 41.

(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 the person or surviving spouse, 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 firemen's pension fund established pursuant to this section, and who can otherwise qualify, shall be, or become, a participating employe under subch. I of ch. 41.

(8) Any village having a volunteer fire department shall be reimbursed by the commission not to exceed \$100 for any fire call on a state trunk highway or any highway that is a part of the national system of interstate highways maintained by the highway commission.

History: 1975 c. 94 s. 91 (5); 1975 c. 199.

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.

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 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.

61.73 Village housing authorities. The provisions of ss. 66.40 to 66.425 shall apply to villages, and the powers and duties conferred and imposed by these sections 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 creating a housing authority in substantially the manner provided in ss. 66.40 to 66.404 is hereby declared to be valid, and any village housing authorities whether heretofore or hereafter created shall be entitled to participate in any state grants-in-aid for housing in the same

manner as city housing authorities created under ss. 66.40 to 66.404.

61.74 Detachment of farm lands from villages. Land of an area of 200 acres or more contiguous to the boundary of any village which has been within the corporate limits of such village for 20 years or more and which during all of said time has been used exclusively for agricultural purposes may be detached from such village and annexed to an adjoining town or towns in a proceeding as provided by s. 62.075 in the case of such detachments from cities. For the purpose of this section, the provisions of s. 62.075 govern wherever applicable, except the word "village" is substituted for the word "city" as used therein.

61.75 Rewards. Section 62.26 (4) shall apply to villages. As used in said section, the term "mayor" shall mean "village president" and the term "aldermen" shall mean "village trustees".

History: 1971 c 116