

ORDINANCE NO. 527

AN ORDINANCE OF THE VILLAGE OF POTTER AMENDING SECTION 35.28 RELATING TO PROPOSED BUDGET STATEMENTS; AMENDING SECTION 35.29 RELATING TO PROPOSED BUDGETS STATEMENTS, BUDGET HEARING, BUDGET ADOPTIONS, AND THE CERTIFICATION OF THE TAX AMOUNT; AMENDING SECTION 35.30 RELATING TO ADOPTED BUDGET STATEMENTS, BUDGET FILING, AND THE CERTIFICATION OF THE AMOUNT OF TAX; AMENDING SECTION 34.48 RELATING TO PROPERTY TAX LEVIES OF THE MUNICIPAL CODE OF THE VILLAGE OF POTTER, NEBRASKA, TO HARMONIZE WITH STATE LAW; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CHAIRMAN AND BOARD OF TRUSTEES OF THE VILLAGE OF POTTER, NEBRASKA:

Section 1. That §35.28 of the Municipal Code of the Village of Potter, Nebraska, is amended to read as follows:

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

- A. The Board of Trustees shall annually or biennially prepare a proposed budget statement on forms prescribed and furnished by the Auditor of Public Accounts. The proposed budget statement shall be made available to the public prior to publication of the notice of the hearing on the proposed budget statement pursuant to §35.29. A proposed budget statement shall contain the following information, except as provided by state law:
- (1) For the immediately preceding fiscal year or biennial period, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds, and separately stated as to each such source: the unencumbered cash balance at the beginning and end of the year or biennial period; the amount received by taxation of personal and real property; and the amount of actual expenditures;
 - (2) For the current fiscal year or biennial period, actual, and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds, and separately stated as to each such source: the actual unencumbered cash balance available at the beginning of the year or biennial period; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. This statement shall contain the cash reserve for each fiscal year or biennial period and shall note whether or not the reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years or biennial periods. The cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;
 - (3) For the immediately ensuing fiscal year or biennial period, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: the actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year or biennial period; the amounts proposed to be expended during the year or biennial period; and the amount of cash reserve, based on actual experience of prior years or biennial periods, which cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;
 - (4) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property:
 - (a) For the purpose of paying the principal or interest on bonds issued or authorized to be issued by the Board of Trustees or the legal voters of the village; and
 - (b) For all other purposes.
 - (5) A uniform summary of the proposed budget statement, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand total of all funds maintained by the Board of Trustees; and

- (6) A list of the proprietary functions which are not included in the budget statement. These proprietary functions shall have a separate budget statement which is approved by the Board of Trustees as provided in the Municipal Proprietary Function Act.
- B. The actual or estimated unencumbered cash balance required to be included in the budget statement by this section shall include deposits and investments of the village as well as any funds held by the County Treasurer for the village and shall be accurately stated on the proposed budget statement.
- C. The village shall correct any material errors in the budget statement detected by the Auditor of Public Accounts or by other sources.
(Neb. RS 13-504)
- D. The estimated expenditures plus the required cash reserve for the ensuing fiscal year or biennial period less all estimated and actual unencumbered balances at the beginning of the year or biennial period and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property shall equal the amount to be received from taxes, and that amount shall be shown on the proposed budget statement pursuant to this section. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year or biennial period.
(Neb. RS 13-505)

Section 2. That §35.29 of the Municipal Code of the Village of Potter, Nebraska, is amended to read as follows:

§ 35.29 PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF TAX AMOUNT.

- A. The Board of Trustees shall each year or biennial period conduct a public hearing on its proposed budget statement. Such hearing shall be held separately from any regularly scheduled meeting of the governing body and shall not be limited by time. Notice of the place and time of the hearing, together with a summary of the proposed budget statement, shall be published at least 4 calendar days prior to the date set for the hearing in a newspaper of general circulation within the village's jurisdiction. For purposes of such notice, the 4 calendar days shall include the day of publication but not the day of the hearing. When the total operating budget, not including reserves, does not exceed \$10,000 per year or \$20,000 per biennial period, the proposed budget summary may be posted at the Village Office. At such hearing, the village shall make at least 3 copies of the proposed budget statement available to the public and shall make a presentation outlining the key provisions of the proposed budget statement, including, but not limited to, a comparison with the prior year's budget. Any member of the public desiring to speak on the proposed budget statement shall be allowed to address the Village Board at the hearing and shall be given a reasonable amount of time to do so.
- B. After the hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of the hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. The certification of the amount to be received from personal and real property taxation shall specify separately the amount to be applied to the payment of principal or interest on bonds issued by the Board of Trustees or the legal voters of the village and the amount to be received for all other purposes.
- C. If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of the changes shall be published within 20 calendar days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed, and the reasons for the changes.
- D. Upon approval by the Board of Trustees, the budget shall be filed with the Auditor of Public Accounts. The Auditor may review the budget for errors in mathematics, improper accounting, and noncompliance with the Nebraska Budget Act or Neb. RS 13-518 to 13-522. If the Auditor detects such errors, he or she shall immediately notify the village of such errors. The village shall correct any such error as provided in § 35.34. Warrants for the payment of expenditures provided in the budget adopted under this section shall be valid notwithstanding any errors or noncompliance for which the Auditor has notified the village.

(Neb. RS 13-506)

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

(Neb. RS 13-507)

Section 3. That §35.30 of the Municipal Code of the Village of Potter, Nebraska, is amended to read as follows:

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

- A. (1) After publication and hearing on the proposed budget statement and within the time prescribed by law, the Board of Trustees shall file with and certify to the levying board or boards on or before September 30 of each year or September 30 of the final year of a biennial period and file with the Auditor of Public Accounts a copy of the adopted budget statement which complies with Neb. RS 13-518 to 13-522, together with the amount of the tax required to fund the adopted budget, setting out separately:
- (a) The amount to be levied for the payment of principal or interest on bonds issued by the Board of Trustees; and
 - (b) The amount to be levied for all other purposes.
- (2) Proof of publication shall be attached to the statements.
- B. If the prime rate published by the Federal Reserve is 10% or more at the time of filing and certification required in this subsection, the Board of Trustees, in certifying the amount required, may make allowance for delinquent taxes not exceeding 5% of the amount required plus the actual percentage of delinquent taxes for the preceding tax year or biennial period and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year or biennial period which is still pending. Except for such allowances, the Board of Trustees shall not certify an amount of tax more than 1% greater or lesser than the amount determined under Neb. RS 13-505.
- C. The Board of Trustees shall use the certified taxable values as provided by the County Assessor pursuant to Neb. RS 13-509 for the current year in setting or certifying the levy. The Board of Trustees may designate one of its members to perform any duty or responsibility required of the Board by this section.
- (Neb. RS 13-508)

Section 4. That §35.48 of the Municipal Code of the Village of Potter, Nebraska, is amended to read as follows:

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

- A. Property tax levies for the support of the village for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this division A, except as provided in division C. The village may levy a maximum levy of \$0.45 per \$100 of taxable valuation of property subject to the levy plus an additional \$0.05 per \$100 of taxable valuation to provide financing for the village's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. RS 51-201, museum pursuant to Neb. RS 51-501, visiting community nurse, home health nurse, or home health agency pursuant to Neb. RS 71-1637, or statue, memorial, or monument pursuant to Neb. RS 80-202. Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against the village which require or obligate the village to pay that judgment, to the extent the judgment is not paid by liability insurance coverage of the village, for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this division A. The limitations on tax levies provided in this division A are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this division A are

those provided by or authorized by this section. Tax levies in excess of the limitations in this section shall be considered unauthorized levies under Neb. RS 77-1606 unless approved under division C.

(Neb. RS 77-3442)

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

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

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

1. Adopt a resolution by a majority vote of members present which determines a final allocation of levy authority for the village; and
2. Forward a copy of that resolution to the chairperson of the governing body of each of its political subdivisions.

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

(Neb. RS 77-3443)

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

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

- (a) By passing a resolution calling for exceeding the limits by a vote of at least 2/3 of the members of the Board of Trustees and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the village; or
- (b) Upon receipt of a petition by the County Clerk or Election Commissioner of every county containing all or part of the village requesting an election signed by at least 5% of the registered voters residing in the village.

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

(4) The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 31 days after receipt of the resolution or petition. The election shall be held pursuant to the Election Act. For

petitions filed with the County Clerk or Election Commissioner on or after May 1, 1998, the petition shall be in the form as provided in Neb. RS 32-628 through 32-631.

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

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

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

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

- (9) (a) The village may rescind or modify a previously approved excess levy authority prior to its expiration by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to rescind or modify must be approved prior to October 10 of the fiscal year for which it is to be effective.
- (b) The Board of Trustees may call for the submission of the issue to the voters:
1. By passing a resolution calling for the rescission or modification by a vote of at least 2/3 of the members of the Board of Trustees and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the village; or
 2. Upon receipt of a petition by the County Clerk or Election Commissioner of every county containing all or part of the village requesting an election signed by at least 5% of the registered voters residing in the village.
- (c) The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either the excess levy authority will be rescinded or the excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of the modification shall be stated. The modification shall not have a duration greater than 5 years. The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 31 days after receipt of the resolution or petition, and the time of publication and providing a copy of the notice of election required in Neb. RS 32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act.

(Neb. RS 77-3444)

Section 5. That any other ordinance or section passed and approved prior to the passage, approval, and publication of this ordinance and in conflict with these provisions of this ordinance, is hereby repealed.

Section 6. This ordinance shall go into force and effect from and after its passage, approval and publication or posting as required by law.

Passed and approved this 12th day of June 2023.



Melinda L...

Village Clerk

Joe Barla

Chairman of the Board of Trustees