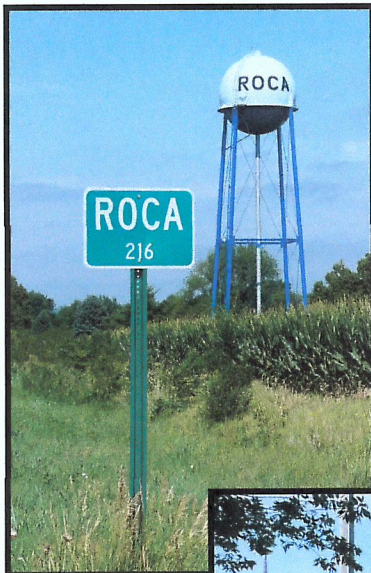




# VILLAGE OF ROCA, NEBRASKA



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REVISED  
MUNICIPAL  
CODE

ADOPTED  
1/13/14



**ORDINANCES OF A GENERAL  
AND PERMANENT NATURE  
OF THE VILLAGE OF ROCA, NEBRASKA**

**ORDINANCE NO. 2014-02**

**AN ORDINANCE OF THE VILLAGE OF ROCA, NEBRASKA, RECODIFY-  
ING THE GENERAL ORDINANCES OF THE VILLAGE; REPEALING PRIOR OR-  
DINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE VILLAGE BOARD OF THE VILLAGE OF ROCA,  
NEBRASKA, AS FOLLOWS:**

**SECTION 0-001: RECODIFICATION**

The ordinances of the Village of Roca, Nebraska, are hereby compiled and classified into ten chapters and the sections thereunder, which are adopted and declared to be the ordinances of this village.

**SECTION 0-002: REPEAL PRIOR ORDINANCES IN CONFLICT**

All ordinances and parts of ordinances of a general or permanent nature passed and approved prior to the passage and approval of this codification ordinance and in conflict with this ordinance are hereby repealed; provided, in construing the provisions of this ordinance, the following ordinances shall not be considered or held to be ordinances of a general or permanent nature, to-wit:

1. Ordinances vacating streets or alleys;
2. Ordinances authorizing or directing public improvements to be made;
3. Ordinances levying taxes or special assessments;
4. Ordinances granting any right, privilege, franchise, or license to persons, firms, or corporations;
5. Ordinances providing for the issuance of bonds or other instruments of indebtedness;
6. Any other ordinance which by nature would be considered special.

**SECTION 0-003: EXCEPTIONS**

The repeal of ordinances as provided in the preceding section hereof shall not affect any right acquired, fines, penalties, forfeitures, or liabilities incurred thereunder, or actions involving any of the provisions of such ordinances and parts thereof. Said ordinances above repealed are hereby continued in force and effect after the passage, approval and publication hereof for the purpose of all such rights, fines, penalties, forfeitures, and liabilities and actions therefor.



## **SECTION 0-004: CONSTRUCTION OF CHAPTERS**

For purposes of construction, each chapter contained and arranged in this code shall be considered as a separate and distinct ordinance grouped for convenience under General Codification Ordinance No. 2014-02, and each section appearing in the several chapters of this code shall be considered a separate and distinct unit of legislation germane to the chapter or article under which it is considered.

## **SECTION 0-005: DEFINING CHAPTERS AND SECTIONS; ORDINANCE NUMBERING**

The chapters and sections as set forth herein shall be and hereby are declared to be the chapters and sections to designate said provisions, and all ordinances hereafter passed shall be numbered consecutively.

## **SECTION 0-006: GENERAL DEFINITIONS**

1. *Person*. Whenever used in this code, "person" shall include persons, artificial persons such as corporations, co-partnerships, associations, and all aggregate organizations of whatever character.

2. *Gender, number*. All words used herein implying the masculine gender may apply to and include the feminine or neuter gender, and all words importing the plural may be applied to and mean a single person, firm or thing, or vice versa; and all words importing the singular number may be applied to and mean plural number.

3. *Code, ordinance, article*. "Municipal code" shall mean General Codification Ordinance No. 2014-02. "Ordinance" and "article" are used synonymously, unless from the context the contrary clearly appears.

4. *Village, municipal, municipality*. These terms shall mean the Village of Roca, Nebraska, a municipal corporation.

5. *Village Board, Board of Trustees*. These terms shall mean the Village Board of Trustees of the Village of Roca, Nebraska.

## **SECTION 0-007: VALIDITY**

Each chapter, section, and subdivision of a section of each ordinance is hereby declared to be independent of each other chapter, section, or subdivision of a section so far as inducement of the passage of this ordinance is concerned; and the invalidity of any chapter, section, or subdivision of a section of this ordinance shall not invalidate any other chapter, section, or subdivision of a section thereof.

## **SECTION 0-008: NONSUBSTANTIVE CHANGES**

Municipal Code Services, Inc., and the village clerk be and hereby are authorized to make nonsubstantive changes in this ordinance to correct the spelling of words, capitalize or uncapitalize words, and make other similar changes in accordance with accepted usage or for consistency with terminology used in other provisions of this code. Municipal Code Services, Inc., and the village clerk are further authorized to make other nonsubstantive changes necessary to incorporate ordinance material into this code while preserving the original meaning of the ordinance sections.

## **SECTION 0-009: EMPOWERMENT OF OTHER LAW ENFORCEMENT PERSONNEL**

The term "village police" or "village marshal" shall apply in all instances to all other law enforcement officials, including Lancaster County sheriff and deputies and Nebraska State Patrol troopers. Whenever this codifying ordinance empowers the village police or village marshal to take any action, such empowerment shall extend to and apply equally to the Lancaster County sheriff or deputies or any Nebraska State Patrol troopers.

## **SECTION 0-010: DOLLAR AMOUNTS NOT REQUIRED TO BE INCORPORATED**

All compensation amounts for city officials and employees, fees and charges for providing municipal services to the customers of such services, occupation taxes, and minimum fines for violation of municipal ordinances may be established from time to time by ordinance or resolution as required or permitted by Nebraska law. Any such ordinance or resolution shall be on file with the village clerk and available for public inspection during normal office hours. Such ordinances containing compensation, fees, charges, taxes and fines shall be published as required by law but it shall not be required that they be incorporated as part of the general ordinances in book form.

## **SECTION 0-011: FINES, COSTS, COMMITMENTS**

In any case where any person, including a partnership or corporation, shall have been found guilty of the violation of any ordinance of the Village of Roca, such person shall pay the costs of prosecution and court costs and shall stand committed until the same shall have been paid in full.

## **SECTION 0-012: BLANKET PENALTY**

Any person, firm, or corporation, their agents or servants, who shall violate any of the provisions of the within municipal code of ordinances, chapters, sections, or subdivisions of sections included herein, unless specifically otherwise provided herein, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not to exceed \$500.00.

**SECTION 0-013: PUBLICATION AND DISTRIBUTION**

This code was printed in book form under the direction of the Village Board members and shall be distributed as they may see fit.

**SECTION 0-014: WHEN OPERATIVE**

This ordinance shall be in full force and take effect from and after its passage, approval and publication according to law.

Passed and approved this 13<sup>th</sup> day of January, 2014.

VILLAGE OF ROCA

/s/ Robert C. Green  
Chairman

ATTEST:

/s/ Kristi Janda  
Village Clerk

**CERTIFICATION OF PASSAGE**

STATE OF NEBRASKA       )  
                                  ) ss.  
COUNTY OF LANCASTER )

I, Kristi Janda, village clerk in and for the Village of Roca, Nebraska, do hereby certify that Ordinance No. 2014-02, which is herein set out, was duly passed by the Village Board on the 13<sup>th</sup> day of January, 2014, and was duly approved by the chairman of said village on the same date. In testimony whereof, I have hereunto set my hand and affixed my official seal this 13<sup>th</sup> day of January, 2014.

/s/ Kristi Janda  
Village Clerk



## RESOLUTION NO. 2014-01-02

**A RESOLUTION BY THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF ROCA, NEBRASKA, DIRECTING THE VILLAGE CLERK TO CAUSE ORDINANCE NO. 2014-01-02 TO BE PRINTED AND PUBLISHED IN BOOK FORM BY MUNICIPAL CODE SERVICES OF NELIGH, NEBRASKA.**

BE IT RESOLVED by the Village Board of the Village of Roca, Nebraska, that the village clerk of said village be and hereby is directed to cause Ordinance No. 2014-01-02, which was on this date duly passed by said Village Board and approved by the Chairman, to be printed and published in book form by Municipal Code Services of Neligh, Nebraska, within 30 days after this date.

PASSED AND ADOPTED this 13<sup>th</sup> day of January, 2014.

VILLAGE OF ROCA

/s/ Robert C. Green  
Chairman

ATTEST:

/s/ Kristi Janda  
Village Clerk

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## **CHAPTER 1 – CIVIL ADMINISTRATION**

### **Article 1 – Village Administration**

#### **SECTION 1-101: CORPORATE EXISTENCE**

The Village of Roca, Nebraska, having a population of fewer than 800 inhabitants, is hereby declared to be a village and shall be governed in all respects by the laws regulating villages. (Neb. Rev. Stat. §17-201)

#### **SECTION 1-102: OFFICIAL CORPORATE SEAL**

The official corporate seal of the village shall be kept in the office of the village clerk and may bear the following inscription: "Seal, Village of Roca, Nebraska." The village clerk shall affix an impression of the said official seal to all warrants, licenses, permits, ordinances, and all other official papers issued by order of the Village Board and countersigned by him or her. (Neb. Rev. Stat. §17-502)

#### **SECTION 1-103: BONDS; FORM**

A. Official bonds of the village shall be in form, joint and several, and shall be made payable to the village in such penalty as the Village Board may set by resolution; provided, the penalty amount on any bond shall not fall below the legal minimum when one has been set by the State of Nebraska for each particular official. All official bonds of village officials shall be executed by the principal named in such bonds and by at least two sufficient sureties who shall be freeholders of the county or by the official as principal and by a guaranty, surety, fidelity, or bonding company; provided, no village official, while still in his or her official term of office, shall be accepted as surety on any other official's bond, contractor's bond, license bond, or appeal bond under any circumstances. Only companies that are legally authorized to transact business in the State of Nebraska shall be eligible for suretyship on the bond of an official of the village.

B. All said bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of such principal and shall inure to the benefit of the village and any persons who may be injured by a breach of the conditions of such bonds. No bond shall be deemed to be given or complete until approved by the Village Board and all sureties are endorsed in writing on the said instrument by the chairman and village clerk pursuant to the said approval of the board. All official bonds meeting the conditions herein shall be filed with the village clerk for the official records and it shall be the duty of the clerk to furnish a certified copy of any bond so filed upon the payment of a fee which shall be set by resolution of the Village Board.

C. The premium on any official bond required to be given may be paid out of the general fund or other proper village fund upon a resolution to that effect by the Village Board at the beginning of any village year. All surety and other bonds re-

quired by village ordinances or by Nebraska law for village officials may be provided by the purchase of a blanket bond, undertaking or equivalent insurance. The village may pay the premium for the bond or insurance coverage. The bond or insurance coverage shall be, at a minimum, an aggregate of the amounts fixed by law or by the Village Board and on such terms and conditions as may be required.

D. If the sureties on the official bond of any officer of the village become insufficient in the opinion of the Village Board, it may by resolution fix a reasonable time within which the said officer may give a new bond or additional sureties as directed. In the event that the officer should fail, refuse, or neglect to give a new bond or additional sureties to the satisfaction and approval of the board, then the office shall by such failure, refusal, or neglect become vacant and it shall be the duty of the board to appoint a competent and qualified person to fill the said office. Any official reelected to office shall be required to file a new bond after each election.

(Neb. Rev. Stat. §11-104, 11-105, 11-110 through 11-119, 11-121, 11-122, 17-604)

## **SECTION 1-104: OATH OF OFFICE**

A. All officials of the village, whether elected or appointed, except when a different oath is specifically provided herein, shall before entering upon their respective duties take and subscribe the following oath which shall be endorsed upon their respective bonds:

"I, \_\_\_\_\_, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Nebraska against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely and without mental reservation or for the purpose of evasion; and that I will faithfully and impartially perform the duties of the office of \_\_\_\_\_ according to law and to the best of my abilities; and I do further swear that I do not advocate nor am I a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence; and that during such time as I am in this position I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence. So help me God."

B. If any such officer is not required to give bond, the oath shall be filed in the office of the secretary of state or with the village clerk.

(Neb. Rev. Stat. §11-101)

## **SECTION 1-105: SALARIES**

A. All salaries of elected and appointed officials shall be set by ordinance and kept on file in the office of the village clerk, where they shall be available to the public for inspection during office hours.



B. The compensation of any elective official of the village shall not be increased nor diminished during the term for which he or she shall have been elected except when there has been a merger of offices; provided, the compensation of the members of the Village Board or a board or commission may be increased or diminished at the beginning of the full term of any member whether or not the terms of one or more members commence and end at different times.

C. No elected official may be rehired at a greater salary if he or she resigns and desires to be rehired during the unexpired term of office. Said official may be rehired at a greater salary after the term of office during which he or she resigned. (Neb. Rev. Stat. §17-209, 17-612)

## **SECTION 1-106: CONFLICT OF INTEREST**

A. For purposes of this section, "officer" shall mean (1) any member of any board or commission of the village; (2) any appointed official if such village official serves on a board or commission which spends and administers its own funds and is dealing with a contract made by such board or commission, or (3) any elected village official.

B. Unless specified otherwise, volunteer firefighters and ambulance drivers shall not be considered officers for purposes of this section with respect to their duties as firefighters and ambulance drivers.

C. No officer of the village shall be permitted to benefit from any contract to which the village is a party. The existence of such an interest in any contract renders the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment thereof with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the village or by any resident thereof and must be brought within one year after the contract is signed or assigned. Any such decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the village has benefited thereby. The prohibition in this section shall apply only when the officer or his or her parent, spouse, or child:

1. Has a business with which the individual is associated or a business association which shall mean a business (a) in which the individual is a partner, director or officer or (b) in which the individual or a member of the individual's immediate family is a stockholder of a closed corporation stock worth \$1,000.00 or more at fair market value or which represents more than 5% equity interest, or is a stockholder of publicly traded stock worth \$10,000.00 or more at fair market value or which represents more than 10% equity interest; or
2. Will receive a direct pecuniary fee or commission as a result of the con-

tract; provided, however, if such officer is an employee of the business involved in the contract and has no ownership interest or will not receive a pecuniary fee, such officer shall not be deemed to have an interest within the meaning of this section.

D. The provisions of this section shall not apply if the interested officer:

1. Makes a declaration on the record to the governmental body responsible for approving the contract regarding the nature and extent of his or her interest, prior to official consideration of the contract;
2. Does not vote on the matter of granting the contract, except that if the number of members of the body declaring an interest in the contract would prevent the body, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and
3. Does not act for the governing body as to inspection or performance under the contract in which he or she has an interest.

E. The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any village by a financial institution shall not be considered a contract under the provisions of this section. The ownership of less than 5% of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section. Notwithstanding the provisions of subsections (D)(1) through (3) above, if an officer's parent, spouse or child is an employee of the village, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his or her parent, spouse, or child for special action. If an officer has the power to employ personnel and he or she hires his or her parent, spouse, or child, such officer shall disclose the hiring pursuant to subsections (F)(1) through (5) below, except that if the parent, spouse, or child is already employed in the position at the time the officer takes office and such position does not change, no disclosure need be made. Notwithstanding any other provision of this section, any contract entered into with an interested officer shall be subject to applicable competitive bidding requirements and shall be fair and reasonable to the village.

F. The village clerk shall maintain, separately from other records, a ledger containing the information listed in this subsection about every contract entered into by the village in which an officer has an interest as specified above for which disclosure is made as provided in subsections (D)(1) through (3) above. Such information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include the (1) names of the contracting parties; (2) nature of the interest of the officer in question; (3) date that the contract was approved by the village; (4) amount of the contract; and (5) basic terms of the contract.

G. The information supplied relative to the contract shall be provided to the

clerk not later than ten days after the contract has been signed by both parties. The ledger kept by the clerk shall be available for public inspection during normal working hours.

H. An open account established for the benefit of any village or entity thereof, with a business in which an officer has an interest, shall be deemed a contract subject to the provisions of this section. The statement required to be filed pursuant to this section shall be filed within ten days after such account is opened. Thereafter, the clerk shall maintain a running account of all amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to the provisions of this section.

I. Any officer who knowingly violates the provisions of Neb. Rev. Stat. §49-14,103.01 through 49-14,103.03 shall be guilty of a Class III misdemeanor. Any officer who negligently violates Neb. Rev. Stat. §49-14,103.01 through 49-14,103.03 shall be guilty of a Class V misdemeanor.

J. The village may enact ordinances exempting from the provisions of this section contracts involving \$100.00 or less in which an officer of such village may have an interest.

K. No officer shall receive any pay or perquisites from the village other than his or her salary. The Village Board shall not pay or appropriate any money or other valuable thing to pay a person who is not an officer for the performance of any act, service, or duty which shall come within the proper scope of the duties of any officer of the village.

(Neb. Rev. Stat. §17-611, 18-305 through 18-312, 49-1408, 49-14,103.01 through 49-14,103.03, 49-14,103.06)

## **SECTION 1-107: PRODUCTION OF PUBLIC RECORDS**

A. Except as otherwise expressly provided by statute, all citizens of this state and all other persons interested in the examination of the public records of the city, as defined in Neb. Rev. Stat. §84-712.01, are hereby fully empowered and authorized to:

1. Examine such records and make memoranda, copies using their own copying or photocopying equipment in accordance with subsection (B) of this section, and abstracts therefrom, all free of charge, during the hours the city office may be kept open for the ordinary transaction of business; and
2. Except if federal copyright law otherwise provides, obtain copies of public records in accordance with subsection (C) of this section during the hours the city office may be kept open for the ordinary transaction of business.



B. Copies made by citizens or other persons using their own copying or photocopying equipment pursuant to subdivision (A)(1) of this section shall be made at the city office or at a location mutually agreed to by the requester and the city clerk.

C. Procedure.

1. Copies may be obtained pursuant to subdivision (A)(2) of this section only if the city has copying equipment reasonably available. Such copies may be obtained in any form designated by the requester in which the public record is maintained or produced, including but not limited to printouts, electronic data, discs, tapes, and photocopies. This section shall not be construed to require the city clerk to copy any public record that is available to the requester on the city's web site on the Internet. The city clerk is required to provide the location of the public record on the Internet to the requester. If the requester does not have reasonable access to the Internet due to lack of computer, lack of Internet availability, or inability to use a computer or the Internet, the city clerk shall produce copies for the requester.
2. Except as otherwise provided by statute, the city may charge a fee for providing copies of such public record pursuant to subdivision (A)(2) of this section, which fee shall not exceed the actual added cost of making the copies available. For purposes of this subdivision: (a) for photocopies, the actual added cost of making the copies available shall not exceed the amount of the reasonably calculated actual added cost of the photocopies, which may include a reasonably apportioned cost of the supplies, such as paper, toner, and equipment, used in preparing the copies, as well as any additional payment obligation of the city for time of contractors necessarily incurred to comply with the request for copies, (b) for printouts of computerized data on paper, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of computer run time and the cost of materials for making the copy, and (c) for electronic data, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of the computer run time, any necessary analysis and programming by the public body, public entity, public official, or third-party information technology services company contracted to provide computer services to the city, and the production of the report in the form furnished to the requester.
3. The actual added cost used as the basis for the calculation of a fee for records shall not include any charge for the existing salary or pay obligation to the city employees with respect to the first four cumulative hours of searching, identifying, physically redacting, or copying. A special service charge reflecting the calculated labor cost may be included in the fee for time required in excess of four cumulative hours, since that large

a request may cause some delay or disruption of the other responsibilities of the city clerk's office, except that the fee for records shall not include any charge for the services of an attorney to review the requested public records seeking a legal basis to withhold the public records from the public.

4. This section shall not be construed to require the city to produce or generate any public record in a new or different form or format modified from that of the original public record.
5. If copies requested in accordance with subdivision (A)(2) of this section are estimated by the city clerk to cost more than \$50.00, he or she may require the requester to furnish a deposit prior to fulfilling such request.

D. Upon receipt of a written request for access to or copies of a public record, the city clerk shall provide to the requester as soon as is practicable and without delay but not more than four business days after actual receipt of the request, an estimate of the expected cost of the copies and either:

1. Access to or, if copying equipment is reasonably available, copies of the public record;
2. If there is a legal basis for denial of access or copies, a written denial of the request, together with the information specified in Neb. Rev. Stat. §84-712.04; or
3. If the entire request cannot with reasonable good faith efforts be fulfilled within four business days after actual receipt of the request due to the significant difficulty or the extensiveness of the request, a written explanation, including the earliest practicable date for fulfilling the request, an estimate of the expected cost of any copies, and an opportunity for the requester to modify or prioritize the items within the request. The requester shall have ten business days to review the estimated costs, including any special service charge, and request the city clerk to fulfill the original request, negotiate with the clerk to narrow or simplify the request, or withdraw the request. If the requester does not respond to the city clerk within ten business days, the clerk shall not proceed to fulfill the request. The four business days shall be computed by excluding the day the request is received, after which the designated period of time begins to run. "Business day" does not include a Saturday, a Sunday, or a day during which the city office is closed.

E. Records which may be withheld from the public are enumerated in Neb. Rev. Stat. §84-712.05. Any reasonably segregable public portion of a record shall be provided to the public as a public record upon request after deletion of the portions which may be withheld.

F. Any person denied any rights granted by Neb. Rev. Stat. §84-712 to 84-

712.03 may act as provided in Neb. Rev. Stat. §84-712.03 and shall receive in written form from the city at least the information as provided in Neb. Rev. Stat. §84-712.04. (Neb. Rev. Stat. §84-712, 84-712.03 thru 84-712.06)

## **Article 2 – Village Board**

### **SECTION 1-201: POWERS**

A. The Board of Trustees shall have the power to pass ordinances; to prevent and remove nuisances; to restrain and prohibit gambling; to provide for licensing and regulating theatrical and other amusements within the village; to prevent the introduction and spread of contagious diseases; to establish and regulate markets; to erect and repair bridges; to provide for the inspection of building materials to be used or offered for sale in the village; to govern the planting and protection of shade trees in the streets and the building of structures projecting upon or over and adjoining and all excavations through and under the sidewalks of the village; and in addition to the special powers herein conferred and granted, to maintain the peace, good government and welfare of the village and its trade, commerce and manufactories; and to enforce all ordinances by inflicting penalties upon inhabitants or other persons for violation thereof not exceeding \$500 for any one offense, recoverable with costs. (Neb. Rev. Stat. §17-207)

B. The village has the power and authority by ordinance to define, regulate, suppress and prevent nuisances, to declare what constitutes a nuisance, and to abate and remove the same. The village may exercise such power and authority within its zoning jurisdiction. (Neb. Rev. Stat. §18-1720)

### **SECTION 1-202: NUMBER AND QUALIFICATIONS**

The Board of Trustees shall consist of five members. Any person who is a citizen of the United States, a resident of the village at the time of his or her election and a registered voter is eligible to be elected to the board. Every trustee so elected and so qualified shall hold his or her office for a term of four years; provided, a trustee's term shall expire and the office will become vacant upon a change of residence from the village. (Neb. Rev. Stat. §17-202, 17-203)

### **SECTION 1-203: VACANCY**

A. Every elective office shall be vacant upon the happening of any of the events specified in Neb. Rev. Stat. §32-560, except as provided in Neb. Rev. Stat. §32-561.

B. Except as otherwise provided in subsection (C) or (D) of this section, vacancies in elected offices shall be filled by the Village Board for the balance of the unexpired term. Notice of vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the board at a regular or special meeting and shall appear as a part of the minutes of such meeting. The Village Board shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the village or by posting in three public places in the village the office vacated and the length of the unexpired term.



C. The chairman of the Village Board shall call a special meeting or place the issue of filling such vacancy on the agenda at the next regular meeting, at which time he or she shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term. The regular or special meeting shall occur within four weeks after the meeting at which such notice of vacancy has been presented or within four weeks after the death of the incumbent. The board shall vote upon such nominee and if a majority votes in favor of such nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the chairman shall at the next regular or special meeting submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive a majority of the votes, the chairman shall continue at such meeting to submit the names of qualified registered voters in nomination and the board members shall continue to vote upon such nominations at such meeting until the vacancy is filled. All board members present shall cast a ballot for or against the nominee. Any member of the board who has been appointed to fill a vacancy on the board shall have the same rights, including voting, as if such person were elected.

D. The board may, in lieu of filling a vacancy in the elected office as provided in subsection (A) of this section, call a special election to fill such vacancy.

E. If vacancies exist in the offices of a majority of the members of the Village Board, the secretary of state shall conduct a special election to fill such vacancies.

F. Any vacancy due to a recall election shall be filled as provided in Neb. Rev. Stat. §32-1308.  
(Neb. Rev. Stat. §32-569, 32-1308)

#### **SECTION 1-204: VACANCY DUE TO UNEXCUSED ABSENCES**

In addition to the events listed in Neb. Rev. Stat. §32-560 and any other reasons for a vacancy provided by law, after notice and a hearing, a vacancy on the Board of Trustees shall exist if a member is absent from more than five consecutive regular meetings unless the absences are excused by a majority vote of the remaining members. (Neb. Rev. Stat. §19-3101)

#### **SECTION 1-205: CHAIRMAN; SELECTION AND DUTIES**

The Village Board chairman shall be selected at the first regular meeting of the board in December by the members from their own membership. The chairman shall preside at all meetings of the board. In the absence of the chairman, the Board of Trustees shall elect one of its members to occupy the position temporarily, who shall hold the title of chairman pro tempore. The chairman and the chairman pro tempore shall have the same powers and privileges as other members of the Board of Trustees. The chairman shall cause all ordinances of the board to be printed and published for the information of the inhabitants. The chairman shall also perform all duties of his or her office in accordance with state laws and village ordinances. The qualifications for

the chairman shall be the same general qualifications that apply to the members of the Board of Trustees. (Neb. Rev. Stat. §17-203, 17-204, 17-210)

#### **SECTION 1-206: MEETINGS; DEFINED**

"Meetings" shall mean all regular, special, or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action. (Neb. Rev. Stat. §84-1409(2))

#### **SECTION 1-207: MEETINGS; PUBLIC BODY; DEFINED**

"Public body" as used in this article shall mean (A) the Village Board of Trustees; (B) any independent board, commission, bureau, committee, council, sub-unit, or any other body now or hereafter created by Constitution, statute, ordinance or otherwise pursuant to law; and (C) any advisory committee of the bodies listed. This section shall not apply to any subcommittee of any such body unless a quorum of the public body attends a subcommittee meeting or unless such subcommittee is holding hearings, making policy or taking formal action on behalf of its parent body. (Neb. Rev. Stat. §84-1409(1))

#### **SECTION 1-208: MEETINGS; RIGHTS OF THE PUBLIC**

A. Subject to the Open Meetings Act, the public shall have the right to attend and the right to speak at meetings of public bodies and all or any part of a meeting of a public body, except for closed meetings called pursuant to Section 1-217, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

B. It shall not be a violation of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. A body may not be required to allow citizens to speak at each meeting but it may not forbid public participation at all meetings.

C. No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body may require any member of the public desiring to address the body to identify himself or herself.

D. No public body shall for the purpose of circumventing the Open Meetings Act hold a meeting in a place known by the body to be too small to accommodate the anticipated audience. No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

E. The public body shall, upon request, make a reasonable effort to accom-

moderate the public's right to hear the discussion and testimony presented at the meeting.

F. Public bodies shall make available at the meeting, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting. Public bodies shall make available at least one current copy of the Open Meetings Act, to be posted in the meeting room at a location accessible to members of the public. At the beginning of each meeting, the public shall be informed about the location of the posted information.  
(Neb. Rev. Stat. §84-1408, 84-1412)

## **SECTION 1-209: MEETINGS; NOTICE; AGENDA**

A. The advance publicized notice of all board meetings shall be simultaneously transmitted to all members of the Village Board and to the public by a method designated by the board or by the chairman if the board has not designated a method. Such notice shall contain the time and specific place for each meeting and either an enumeration of the agenda subjects known at the time of the notice or a statement that such an agenda, kept continually current, shall be readily available for public inspection at the office of the village clerk.

B. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours before the scheduled commencement of the meeting or 48 hours before the scheduled commencement of a meeting of the Village Board scheduled outside the corporate limits of the village. The board shall have the right to modify the agenda to include items of an emergency nature only at such public meetings.  
(Neb. Rev. Stat. §84-1411(1))

## **SECTION 1-210: MEETINGS; NOTICE TO NEWS MEDIA**

The village clerk shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed. (Neb. Rev. Stat. §84-1411(4))

## **SECTION 1-211: MEETINGS; PLACE, DAY, TIME; QUORUM**

A. The regular meetings of the Village Board shall be held on the second Monday of each month at 7:00 p.m. in the regular meeting place of the village.

B. At all meetings of the Board of Trustees, a majority of the members shall constitute a quorum to do business. A smaller number may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as the Board of Trustees may have previously prescribed by ordinance.  
(Neb. Rev. Stat. §17-204, 17-205)



**SECTION 1-212: MEETINGS; REORGANIZATIONAL; STANDING COMMITTEES**

A. All trustees elected to office shall qualify and meet on the first regular meeting of the Village Board in December thereafter, organize, elect a chairman, and appoint the officers required by law. The board shall, by ordinance, fix the time and place of holding its stated meetings and may be convened at any time by the chairman.

B. Every trustee, before entering upon the duties of his or her office, shall take an oath to support the Constitution of the United States and the Constitution of Nebraska and faithfully and impartially to discharge the duties of his or her office.

C. At the reorganizational meeting, the chairman shall appoint members to the following standing committees: Sewer, Street, Water, and Park. The membership of such committees may be changed at any time by the chairman, who shall be an ex officio member of each standing committee. The members of the committees shall serve terms of office of one year unless reappointed.

(Neb. Rev. Stat. §17-204)

**SECTION 1-213: MEETINGS; ORDER OF BUSINESS**

Promptly at the hour set by law on the day of each regular meeting, the members of the Village Board, the village clerk, and such other village officials as may be required shall take their regular stations in the meeting place and the business of the village shall be taken up for consideration and disposition in the manner prescribed by the official agenda on file at the office of the village clerk.

**SECTION 1-214: MEETINGS; PARLIAMENTARY PROCEDURE**

A. The chairman shall preserve order during meetings of the Village Board and shall decide all questions of order, subject to an appeal to the board. When any person is called to order, he or she shall be seated until the point is decided. When the chairman is putting the question, no person shall leave the meeting room. Every person present, before speaking, shall rise from his or her seat and address himself or herself to the presiding officer and while speaking shall confine himself/herself to the question. When two or more persons rise at once, the chairman shall recognize the one who spoke first.

B. All resolutions or motions shall be reduced to writing before being acted upon, if requested by the village clerk or any member of the Village Board. Every member of the board who is present when a question is voted upon shall cast his or her vote unless excused by a majority of the Village Board present. No motion shall be put or debated unless seconded. When seconded, it shall be stated by the chairman before being debatable. In all cases where a motion or resolution is entered on the minutes, the name of the board member making the motion, or resolution shall be entered also. After each vote, the "yeas" and "nays" shall be taken and entered in the minutes upon the request of any board member. Before the vote is actually taken,



any resolution, motion, or proposed ordinance may be withdrawn from consideration by the sponsor thereof with the consent of the member of the Village Board seconding the said resolution, motion, or ordinance.

C. When, in the consideration of an ordinance, different times or amounts are proposed, the question shall be put on the largest sum or the longest time. A question to reconsider shall be in order when made by a member voting with the majority, but such motion to reconsider must be made before the expiration of the third regular meeting after the initial consideration of the question.

D. When any question is under debate, no motion shall be made, entertained, or seconded except the previous question, a motion to table, and to adjourn. Each of the said motions shall be decided without debate.

E. Any of the rules of the Village Board for meetings may be suspended by a two-thirds vote of the members present. In all cases in which provisions are not made by these rules, *Robert's Rules of Order* is the authority by which the Village Board shall decide all procedural disputes that may arise.

#### **SECTION 1-215: MEETINGS; MINUTES**

The Village Board shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed. The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours. Minutes shall be written and available for inspection within ten working days of the meeting or prior to the next convened meeting, whichever occurs earlier, but an additional ten working days shall be allowed if the employee responsible for writing the minutes is absent due to a serious illness or an emergency. (Neb. Rev. Stat. §84-1413(1), (4), (5))

#### **SECTION 1-216: MEETINGS; VOTES**

Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the Village Board in open session and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by utilization of an electronic voting device which allows the "yeas" and "nays" of each board member to be readily seen by the public. The vote to elect leadership within a public body may be taken by secret ballot but the total number of votes for each candidate shall be recorded in the minutes. (Neb. Rev. Stat. §84-1413)

#### **SECTION 1-217: MEETINGS; CLOSED SESSIONS**

A. The Village Board may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of

an individual and if such individual has not requested a public meeting. Closed sessions may be held for, but shall not be limited to, such reasons as:

1. Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;
2. Discussion regarding deployment of security personnel or devices;
3. Investigative proceedings regarding allegations of criminal misconduct; or
4. Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting.

B. Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

C. The vote to hold a closed session shall be taken in open session. The vote of each member on the question of holding a closed session, the reason for the closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The public body holding such a closed session shall restrict its consideration to matters during the closed portions to only those purposes set forth in the minutes as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, "formal action" shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subsection (A) of this section.

D. Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (1) the protection of the public interest or (2) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

E. Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the provisions of this article. No closed session, informal meeting, chance meeting, social gathering, or electronic communication shall be used for the purpose of circumventing the provisions of this article.

F. The provisions of this article shall not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened and there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.  
(Neb. Rev. Stat. §84-1410)

### **SECTION 1-218: MEETINGS; SPECIAL**

A. Special meetings may be called by the chairman or by three members of the Board of Trustees, the object of which shall be submitted to the board in writing. The call and object as well as the disposition thereof shall be entered upon the journal by the village clerk.

B. On filing the call for a special meeting, the clerk shall notify the board members of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a board member known to be out of the state or physically unable to be present. A majority of the members of the board shall constitute a quorum for the transaction of business but a smaller number may adjourn from day to day and compel the attendance of the absent members. Whether a quorum is present or not, all absent members shall be sent for and compelled to attend.

C. At the hour appointed for the meeting, the village clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the board shall be called to order by the chairman, if present or, if absent, the board members shall elect a president pro tempore. All ordinances passed at any special meeting shall comply with procedures set forth in Chapter 1, Article 3 (Ordinances, Resolutions and Motions) herein.  
(Neb. Rev. Stat. §17-204, 17-205)

### **SECTION 1-219: MEETINGS; EMERGENCY**

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of Section 1-210 (Notice to News Media) shall be complied with in conducting emergency meetings. Complete minutes of any such emergency meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day. (Neb. Rev. Stat. §84-1411)



## **Article 3 – Ordinances, Resolutions and Motions**

### **SECTION 1-301: GRANT OF POWER**

The Village Board shall have the responsibility of making all ordinances, bylaws, rules, regulations, and resolutions not inconsistent with state laws as may be necessary and proper for maintaining the peace, good government, and welfare of the village and its trade, commerce, and security and to enforce all ordinances by inflicting fines or penalties for the breach thereof, not exceeding \$500 for any one offense, recoverable with costs. (Neb. Rev. Stat. §17-505)

### **SECTION 1-302: ORDINANCES; STYLE**

The style of all village ordinances shall be: "Be it ordained by the Chairman and Board of Trustees of the Village of Roca, Nebraska." (Neb. Rev. Stat. §17-613)

### **SECTION 1-303: ORDINANCES; TITLE**

No ordinance shall contain a subject not clearly expressed in its title. (Neb. Rev. Stat. §17-614)

### **SECTION 1-304: ORDINANCES; INTRODUCTION**

Ordinances shall be introduced by members of the Village Board in either of the following ways:

A. With the recognition of the chairman, a board member may, in the presence and hearing of a majority of the Board of Trustees, read aloud the substance of his or her proposed ordinance and file a copy of the same with the village clerk for future consideration; or

B. With the recognition of the chairman, a board member may present his or her proposed ordinance to the clerk who, in the presence and hearing of a majority of the board, shall read aloud the substance of the same and shall file the same for future consideration.

### **SECTION 1-305: RESOLUTIONS AND MOTIONS; INTRODUCTION**

Resolutions and motions shall be introduced in one of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly read one time in the presence and hearing of a majority of the Village Board. The issues raised by said resolutions or motions shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the board. The vote on any resolution or motion shall be by roll call vote.



**SECTION 1-306: VOTES**

A. On the passage or adoption of every bylaw or ordinance and every resolution or order to enter into a contract by the Board of Trustees, "yeas" and "nays" shall be called and recorded. To pass or adopt any bylaw, ordinance, or any such resolution or order, a concurrence of a majority of the whole number of members elected to the Board of Trustees shall be required. (Neb. Rev. Stat. §17-616)

B. All appointments of the officers by the Village Board shall be made viva voce. The concurrence of a like majority shall be required and the names of those and for whom they voted, on the vote resulting in an appointment, shall be recorded. The requirements of a roll call or viva voce vote shall be satisfied by the village if it utilizes an electronic voting device which allows the "yeas" and "nays" of each member of the Village Board to be readily seen by the public. (Neb. Rev. Stat. §17-616)

**SECTION 1-307: PASSAGE; SUSPENSION OF RULES**

Ordinances, resolutions, or orders for the appropriation of money shall require for their adoption a concurrence of the majority of the Village Board. Ordinances of a general or permanent nature shall be read by the title on three different days unless three-fourths of the board votes to suspend this requirement, except that such requirement shall not be suspended for any ordinance for the annexation of territory. In case such requirement is suspended, the ordinance shall be read by title and then moved for final passage. Three-fourths of the board may require any ordinance to be read in full before final passage under either process. (Neb. Rev. Stat. §17-614)

**SECTION 1-308: ORDINANCES; PUBLICATION OR POSTING; CERTIFICATE**

A. Every ordinance of a general nature shall be published one time within 15 days after passage (1) in some newspaper published in the village or, if no paper is published in the village, then (2) by posting a written or printed copy thereof in each of three public places in the village or (3) by publishing it in book or pamphlet form.

B. The passage, approval, and publication or posting of all ordinances shall be sufficiently proven by a certificate under the seal of the village from the village clerk showing that the said ordinance was passed and approved, when and in what paper the same was published or when, by whom, and where the same was posted.

C. When any ordinance is printed in book or pamphlet form, purporting to be published by authority of the Board of Trustees, the same need not be otherwise published and such book or pamphlet shall be received as evidence of the passage and legal publication of such ordinance as of the date mentioned in such book or pamphlet, in all courts without further proof.  
(Neb. Rev. Stat. §17-613)

## **SECTION 1-309: ORDINANCES; EFFECTIVE DATE**

A. No ordinance for the government of the village which has been adopted without submission to the voters shall go into effect until 15 days after the passage of such ordinance except as provided in Neb. Rev. Stat. §16-405 and 17-613.

B. All ordinances adopted by the voters of the village after submission to them by either initiative or referendum petition shall become immediately effective thereafter.

(Neb. Rev. Stat. §19-3701)

## **SECTION 1-310: ORDINANCES; AMENDMENTS AND REVISIONS**

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended shall be repealed, except that an ordinance revising all the ordinances of the village and modifications to zoning building districts may be adopted as otherwise provided by law. (Neb. Rev. Stat. §17-614)

## **SECTION 1-311: EMERGENCY ORDINANCES**

In the case of riot, infectious or contagious diseases or other impending danger, failure of a public utility or other emergency requiring its immediate operation, such ordinance shall take effect upon the proclamation of the chairman and the posting thereof in at least three of the most public places in the village. Such emergency notice shall recite the emergency, shall be passed by a three-fourths vote of the Village Board and shall be entered upon the village clerk's minutes. (Neb. Rev. Stat. §17-613, 19-3701)

## **Article 4 – Appointed Officials**

### **SECTION 1-401: APPOINTMENT; GENERAL AUTHORITY**

The Village Board may appoint a village clerk, treasurer, attorney, overseer of the streets, police chief and other such officers as shall be required by ordinance or otherwise required by law. It shall also appoint a Board of Health as provided in Chapter 2, Article 2. All such appointees, except regular police officers, shall hold office for one year unless sooner removed by the chairman of the Board of Trustees by and with the advice and consent of the remainder of the board. If the village has a water commissioner, he may at any time be removed from office by a two-thirds vote of the board for sufficient cause. (Neb. Rev. Stat. §17-208, 17-541)

### **SECTION 1-402: MERGER OF OFFICES**

The Village Board may by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except trustee, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time. However, trustees may perform, and upon board approval receive compensation for, seasonal or emergency work subject to Neb. Rev. Stat. §49-14,103.01 to 49-14,103.06. The offices or employments so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged and combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment or employments so merged and combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers. (Neb. Rev. Stat. §17-209.02, 49-14,103.01 through 49-14,103.06)

### **SECTION 1-403: CLERK-TREASURER POSITION CREATED**

The appointive offices of village clerk and village treasurer are hereby combined and merged in accordance with the authority granted to the Village Board by Section 1-402. The offices so merged and combined shall always be construed to be separate, and the effect of the combination, or merger, shall be limited to a consolidation of official duties only. The salary of the officer holding the merged offices shall not be in excess of the maximum amount provided by law for the salary of the offices so combined.

### **SECTION 1-404: VILLAGE CLERK**

A. The village clerk shall attend the meetings of the Village Board and keep a correct journal of the proceedings of that body. Within 30 days after any board meet-

ing, the he or she shall prepare and publish the official proceedings in a legal newspaper of general circulation in the village and which was duly designated as such by the board. Said publication shall set forth a statement of the proceedings thereof and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item.

B. The village clerk shall issue and sign all licenses, permits, and occupation tax receipts authorized by law and required by the village ordinances, collect all occupation taxes and license money except where some other village officer is specifically charged with that duty, and keep a register of all licenses granted in the village and the purpose for which they were issued.

C. The village clerk shall keep an accurate and complete account of the appropriation of the several funds and draw, sign, and attest all warrants ordered for the payment of money on the particular funds from which the same are payable. At the end of each month he or she shall make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon.

D. The village clerk shall deliver all warrants, ordinances and resolutions under his or her charge to the chairman for his or her signature. He or she shall also deliver to officers, employees, and committees all resolutions and communications which are directed to them. With the seal of the village, he or she shall duly attest the chairman's signature on all ordinances, deeds and papers required to be attested to.

E. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for such publication shall not exceed the rates provided by state statutes. Said publication shall be charged against the general fund. He or she shall then keep in a book with a proper index copies of all notices required to be published or posted by order of the Village Board or under the ordinances of the village. To each of the file copies of said notices shall be attached to the printer's affidavit of publication if the said notices are required to be published or the village clerk's certificate under seal where the same are required to be posted only.

F. The village clerk shall receive all objections to creation of paving districts and other street improvements. He or she shall receive the claims of any person against the village and in the event that any of said claims is disallowed in part or in whole, the village clerk shall notify such claimant, his or her agent, or attorney by letter within five days after such disallowance. The clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

G. The village clerk shall keep all village records, including a record of all licenses issued in a blank book with a proper index. He or she shall include as part of the records all petitions under which the Village Board shall order public work to be



done at the expense of the property fronting thereon, together with references to all resolutions and ordinances relating to the same. He or she shall endorse the date and hour of filing upon every paper or document so filed in his or her office. All such filings shall be properly docketed. Included in the records shall be all standard codes, amendments thereto, and other documents incorporated by reference and arranged in a manner convenient for reference.

H. The village clerk shall permit no records, public papers, or other documents of the village kept and preserved in the office to be taken therefrom except by such officers of the village as may be entitled to the use of the same but only upon their leaving a receipt therefor. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records during office hours. The village clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution of the Village Board.

I. The village clerk shall have the custody of all laws and ordinances and shall keep a correct journal of the proceedings of the board of trustees. After the period of time specified by the state records administrator pursuant to Neb. Rev. Stat. §84-1201 to 84-1220, the clerk may transfer the journal of the board proceedings of to the state archives of the Nebraska State Historical Society for permanent preservation. (Neb. Rev. Stat. §17-605, 19-1102, 84-1201 through 84-1220, 84-712)

#### **SECTION 1-405: VILLAGE TREASURER**

A. The treasurer of the village shall be the custodian of all money belonging to the corporation, keeping a separate account of each fund or appropriation and the debts and credits belonging thereto. He or she shall give every person paying money into the treasury a receipt therefor, specifying the date of payment and on what account paid. He or she shall also file copies of such receipts with his or her monthly reports, and he or she shall, at the end of every month, and as often as may be required, render an account to the Village Board, under oath, showing the state of the treasury at the date of such account and the balance of money in the treasury. He or she shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid, which warrants, with any and all vouchers held, shall be filed with his or her account in the clerk's office. If the treasurer fails to render an account within 20 days after the end of the month or by a later date established by the Village Board, the chairman, with the advice and consent of the board members, may use this failure as cause to remove the treasurer from office.

B. The treasurer shall keep a record of all outstanding bonds against the village, showing the number and amount of each bond, for and to whom the bonds were issued, and the date upon which any bond is purchased, paid, or canceled. He or she shall accompany the annual statement submitted pursuant to Neb. Rev. Stat. §19-1101 with a description of the bonds issued and sold in that year and the terms of sale, with every item of expense thereof.

C. The treasurer shall deposit and at all times keep on deposit for safekeeping in banks, capital stock financial institutions, or qualifying mutual financial institutions of approved and responsible standing all money collected, received, or held by him or her as village treasurer. Such deposits shall be subject to all regulations imposed by law or adopted by the Village Board for the receiving and holding thereof. The fact that a stockholder, director, or other officer of such bank, capital stock financial institution, or qualifying mutual financial institution is also serving as a member of the Village Board, as a member of a board of public works, or as any other officer of such municipality shall not disqualify such bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such municipal funds. Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions. Neb. Rev. Stat. §77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

D. The board shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions (1) a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured or guaranteed by the Federal Deposit Insurance Corporation or, in lieu thereof, (2) security given as provided in the Public Funds Deposit Security Act, to secure the payment of all such deposits and accretions. The board shall approve such bond or giving of security. The village treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved.

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

F. The treasurer shall prepare and publish annually within 60 days after the close of the municipal fiscal year a statement of the receipts and expenditures of funds of the village for the preceding fiscal year. Not more than the legal rate provided for in Neb. Rev. Stat. §33-141 shall be charged and paid for such publication.

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

(Neb. Rev. Stat. §17-606 through 17-609; 19-1101)

**SECTION 1-406: VILLAGE ATTORNEY**

The village attorney shall be the legal advisor of the Board of Trustees. He or she shall commence, prosecute, and defend all suits and actions necessary to be commenced, prosecuted or defended on behalf of the village or that may be ordered by the board. When requested, he or she shall attend meetings of the board and give an opinion upon any matters submitted to him or her either orally or in writing. The attorney shall draft or review for legal correctness ordinances, contracts, franchises and other instruments as may be required and shall perform such other duties as may be imposed by general law or ordinance. The Village Board shall have the right to pay the village attorney compensation for legal services performed by him or her on such terms as the board and attorney may agree and to employ additional legal assistance and to pay for such legal assistance out of the funds of the village. (Neb. Rev. Stat. §17-610)

**SECTION 1-407: LAW ENFORCEMENT; CONTRACT WITH COUNTY SHERIFF**

The village may enter into a contract with the County Board of Lancaster County for police and law enforcement services to be provided by the Lancaster County Sheriff's Office. Whenever any such contract has been entered into, the sheriff or his deputy shall, in addition to his other powers and duties, have all the powers and duties of the village police chief within and for the village. A minimum of one copy of such contract shall be on file at the office of the village clerk and available for public inspection during office hours. When appointed as the chief law enforcement officer, the county sheriff shall direct the police work of the village and shall be responsible for the maintenance of law and order; file the necessary complaints in cases arising out of violations of village ordinances; and make all necessary reports required by the village ordinances or state laws. (Neb. Rev. Stat. §17-213)

**SECTION 1-408: POLICE CHIEF**

The county sheriff shall direct the police work of the village, shall be responsible for the enforcement of ordinances, and shall make all necessary reports required by village ordinances and state laws. He or she may be appointed to serve on the Board of Health as secretary and quarantine officer and act as health inspector except in the event the village appoints another person (Neb. Rev. Stat. §17-208, 17-213, 17-604)

**SECTION 1-409: SPECIAL ENGINEER**

The Village Board may employ a special engineer to make any particular estimate, survey or other work. He shall, when directed by the Village Board, accurately make all plats, sections, profiles, and maps as may be necessary and make estimates of the costs of labor and material which may be done or furnished by contract with the village. The special engineer shall make all surveys, estimates, and calculations necessary for the establishment of grades, bridges, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, curbing and gutters,



and the improvement of streets and erection and repair of buildings. He shall perform such other duties as the Village Board may require and shall make a record of the minutes of his surveys and all other work done for the village. All records of the special engineer shall be public records which shall belong to the village and shall be turned over to his successor. (Neb. Rev. Stat. §17-405, 17-568, 17-568.01, 17-919)

## **SECTION 1-410: UTILITIES SUPERINTENDENT**

A. As soon as a system of waterworks or mains or portion or extension of any system of waterworks or water supply has been established in the village, the chairman of the Board of Trustees shall nominate and, by and with the advice and consent of the board members, shall appoint any competent person who shall be known as the water commissioner and whose term of office shall be for one fiscal year or until his successor is appointed and qualified. Annually at the first regular meeting of the board in December, the water commissioner shall be appointed as provided in this section. He may at any time, for sufficient cause, be removed by a two-thirds vote of the Board of Trustees. Any vacancy occurring in the office of water commissioner by death, resignation, removal from office, or removal from the village may be filled in the manner provided in this section for the appointment of such commissioner.

B. The water commissioner shall, before entering upon the discharge of his duties, execute a bond or provide evidence of equivalent insurance to the village in a sum to be fixed by the Board of Trustees, not less than \$5,000.00, conditioned upon the faithful discharge of his duties. Such bond shall be signed by two or more good and sufficient sureties, to be approved by the board or executed by a corporate surety. The water commissioner, subject to the supervision of the board, shall have the general management and control of the system of waterworks or mains or portion or extension of any system of waterworks or water supply in the village.

C. If the village has no Board of Public Works and has other public utilities than its waterworks system, the Board of Trustees shall by ordinance designate the water commissioner as public works commissioner, also called utilities superintendent, with authority to manage not only the system of waterworks but also other public utilities, and all of the provisions of this section applying to the water commissioner shall apply to the public works commissioner. The utilities superintendent, subject to the supervision of the Village Board, shall have the general management and control of the following village utilities and shall have such other duties as prescribed by the board:

### Water Department

The utilities superintendent shall have general supervision and control over the village water system and shall be primarily responsible for its economic operation and prudent management, included in the said water system shall be the water plant, the pump house, all machinery, and appliances used in connection with producing and



distributing water to inhabitants of the village. The superintendent shall have the general control and supervisory authority over all employees of the water system which the Village Board may from time to time hire to operate and maintain the said system. He shall make a detailed report to the board at least once every six months of the condition of the said water system, of all mains, pipes, hydrants, reservoirs, and machinery and such improvements, repairs, and extensions thereof as he may think proper. The report shall show the amount of receipts and expenditures on account thereof for the preceding six months. No money shall be expended for improvements, repairs, or extensions of the said waterworks system except upon the recommendation of the superintendent.

#### Sewer Department

The utilities superintendent shall have the immediate control and supervision over all the employees and property that make up the village sewer system. He shall, at least every six months, make a detailed report to the Village Board on the condition of the sewer system and shall direct their attention to such improvements, repairs, extensions, additions, and additional employees as he may believe are needed, along with an estimate of the cost thereof. He shall inspect and supervise all repairs made to the said system.

(Neb. Rev. Stat. §17-541, 17-543)

#### **SECTION 1-411: UTILITIES SUPERINTENDENT; STREETS**

In addition to the above utilities, the utilities superintendent shall, subject to the orders and directives of the Village Board, have general charge, direction and control of all work on the streets, sidewalks, culverts and bridges of the village. It shall be his responsibility to see that gutters and drains therein function properly and that the same are kept in good repair. At the request of the Village Board he shall make a detailed report on the condition of the streets, sidewalks, culverts, alleys and bridges of the village and shall direct its attention to such improvements, repairs, extensions, additions and additional employees as he may believe are needed to maintain a satisfactory street system in the village, along with an estimate of the cost thereof. He shall perform such other duties as the board may require. (Neb. Rev. Stat. §17-214)

#### **SECTION 1-412: BUILDING INSPECTOR**

The duties of the building inspector shall be as provided in Section 9-101 herein.

## **Article 5 – Fiscal Management**

### **SECTION 1-501: FISCAL YEAR**

The fiscal year of the village and any public utility of the village commences on October 1 and extends through the following September 30 except as provided in the Village Proprietary Function Act. (Neb. Rev. Stat. §17-701)

### **SECTION 1-502: PUBLIC FUNDS DEFINED**

“Public funds” shall mean all money, including non-tax money used in the operation and functions of governing bodies. For purposes of a village which has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the village from a licensed lottery operator shall be considered public funds, and public funds shall not include amounts awarded as prizes. (Neb. Rev. Stat. §13-503)

### **SECTION 1-503: DEPOSIT OF FUNDS**

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

B. The Village Board at its first meeting in each fiscal year shall designate one or more banks of approved and responsible standing in which the village treasurer shall keep at all times all money held by him or her; provided, if more than one bank in the village meets the requirements for approved banks as herein defined, the said funds shall be deposited in each of them and the village treasurer shall not give a preference to any one or more of them in the money he or she shall deposit.

C. The Board of Trustees shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions (1) a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or, in lieu thereof, (2) security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The board shall approve such bond or giving of security. The village treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved.

D. The insurance afforded to depositors in banks, capital stock financial institutions, or qualifying mutual financial institutions through the Federal Deposit Insurance Corporation shall be deemed and construed to be a surety bond to the extent that the deposits are insured by such corporation, and for deposits so insured, no other surety bond or other security shall be required.

E. Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions. Neb. Rev. Stat. §77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

(Neb. Rev. Stat. §17-607, 77-2362 through 77-2364)

## **SECTION 1-504: INVESTMENT OF FUNDS**

A. The Village Board may, by resolution, direct and authorize the city treasurer to invest surplus funds in the outstanding bonds or registered warrants of the village and other approved bonds and obligations as provided by law. The interest on such bonds or warrants shall be credited to the fund out of which the said bonds or warrants were purchased. (Neb. Rev. Stat. §17-608, 17-609, 72-1259, 77-2341)

B. Notwithstanding any other provision of law, to the extent that the funds of the village may be invested or deposited by the city treasurer in certificates of deposit or time interest-bearing deposits with banks, capital stock financial institutions, or qualifying mutual financial institutions, such authorization shall may include the investment or deposit of funds in certificates of deposit and time interest-bearing deposits in accordance with the following conditions as an alternative to the furnishing of securities or the providing of a deposit guaranty bond pursuant to the Public Funds Deposit Security Act:

1. The bank, capital stock financial institution, or qualifying mutual financial institution in this state through which the investment or deposit of funds is initially made arranges for the deposit of a portion or all of such funds in one or more certificates of deposit or time interest-bearing deposits with other banks, capital stock financial institutions, or qualifying mutual financial institutions located in the United States;
2. Each such certificate of deposit or time interest-bearing deposit is fully insured or guaranteed by the Federal Deposit Insurance Corporation;
3. The bank, capital stock financial institution, or qualifying mutual financial institution through which the investment or deposit of funds was initially made acts as a custodian for the village with respect to any such certificate of deposit or time interest-bearing deposit issued for the account of the state; and
4. At the same time that the funds are deposited into and such certificates of deposit or time deposits are issued by other banks, capital stock financial institutions, or qualifying mutual financial institutions, the bank,



capital stock financial institution, or qualifying mutual financial institution through which the investment or deposit of funds in certificates of deposit or time interest-bearing deposits was initially made receives an amount of deposits from customers of other banks, capital stock financial institutions, or qualifying mutual financial institutions located in the United States which is equal to or greater than the amount of the investment or deposit of funds in certificates of deposit or time interest-bearing deposits initially made by the village.

(Neb. Rev. Stat. §77-2365.02)

#### **SECTION 1-505: CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS**

The village treasurer may, upon resolution of the Village Board authorizing the same, purchase certificates of deposit from and make time deposits in any bank or capital stock financial institution in the State of Nebraska to the extent that such certificates of deposit or time deposits are insured by the Federal Deposit Insurance Corporation. Deposits may be made in excess of the amounts so secured by the corporation and the amount of the excess deposit shall be secured by a bond or by security given in the manner provided in this section. The provisions of Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions. (Neb. Rev. Stat. §17-720)

#### **SECTION 1-506: AUTHORITY TO CONTRACT WITH COLLECTION AGENCY**

A. The village may contract to retain a collection agency, licensed pursuant to Neb. Rev. Stat. §45-601 to 45-622, within or without this state for the purpose of collecting public debts owed by any person to the village. No debt owed pursuant to this subsection (A) may be assigned to a collection agency unless there has been an attempt to advise the debtor by first-class mail, postage prepaid, at his or her last known address of the existence of the debt and that the debt may be assigned to a collection agency for collection if the debt is not paid and at least 30 days have elapsed from the time the notice was sent. A collection agency which is assigned a debt under this section shall have only those remedies and powers which would be available to it as an assignee of a private creditor.

B. For purposes of this section, "debt" shall include all delinquent fees or payments except delinquent property taxes or real estate. In the case of debt arising as a result of an order or judgment of a court in a criminal or traffic matter, a collection fee may be added to the debt. The collection fee shall be \$25.00 or 4½% of the debt, whichever is greater. The collection fee shall be paid by the person who owes the debt directly to the person or agency providing the collection service.

(Neb. Rev. Stat. §45-623)

#### **SECTION 1-507: CLAIMS**

All claims against the village shall be presented to the Village Board in writing with a full account of the items and no claim or demand shall be audited or allowed unless presented as provided for in this section. No costs shall be recovered against the vil-

lage in any action brought against it for an unliquidated claim which has not been presented to the Village Board to be audited nor upon claims allowed in part unless the recovery shall be for a greater sum than the amount allowed, with the interest due. No order or warrant shall be drawn in excess of 85% of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the village treasury for the appropriate fund against which it is to be drawn; provided, in the event there exist obligated funds from the federal and/or state government for the general purpose of such warrant, then such warrant may be drawn in excess of 85% but not more than 100% of the current levy for the purpose for which said warrant is drawn. (Neb. Rev. Stat. §17-714, 17-715)

#### **SECTION 1-508: WARRANTS**

All warrants drawn upon the village treasury must be signed by the chairman of the Village Board and countersigned by the village clerk, stating the particular fund to which the warrant is chargeable, the person to whom it is payable and the purpose of the expenditure. No money shall be otherwise paid than upon warrants so drawn. Each warrant shall specify the amount included of such fund. (Neb. Rev. Stat. §17-711)

#### **SECTION 1-509: EXPENDITURES**

No village official shall have the power to appropriate, issue or draw any order or warrant on the village treasury for money unless the same has been appropriated or ordered by ordinance. No expenditure for any improvement to be paid for out of the general fund of the village shall exceed in any one year the amount provided for that improvement in the adopted budget statement. (Neb. Rev. Stat. §17-708)

#### **SECTION 1-510: BOND ISSUES**

After meeting all the requirements of state law, the Village Board may issue bonds, fund bonds and retire bonds for such purposes as may be permitted by state law. The Village Board shall have the authority to levy special assessments for the payment of interest and principal on such bonds and may spread the payments up to the maximum number of years permitted by state law. (Neb. Rev. Stat. §10-209 through 10-411, 10-606 through 10-612, 12-1001, 17-529.01, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 23-3513, 39-836)

#### **SECTION 1-511: SINKING FUNDS**

A. The Village Board, subject to the limitations set forth herein, shall have the power to levy a tax not to exceed that prescribed by state law upon the assessed value of all taxable property within the village for a term not to exceed that prescribed by state law, in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the village, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, or repair of the approved uses as authorized by state law. To initiate the said sinking fund, the Village Board shall declare its purpose by resolution to submit to the qualified elec-

tors of the village the proposition to provide the improvement at the next general village election. The resolution shall set forth the improvement, the estimated cost, the amount of the annual levy, the number of years required to provide the required revenue, the name of the sinking fund proposed, and the proposition as it will appear on the ballot.

B. Notice of the said proposition shall be published in its entirety three times on successive weeks before the day of the election in a legal newspaper of general circulation in the village. The sinking fund may be established after the election if a majority or more of the legal votes were in favor of the establishment of the fund. The Village Board may then proceed to establish the said fund in conformity with the provisions of the proposition and applicable state law. The funds received by the village treasurer shall, as they accumulate, be immediately invested with the written approval of the board in the manner provided by state law. No sinking fund so established shall be used for any purpose or purposes contrary to the purpose as it appeared on the ballot unless the Village Board is authorized to do so by 60% of the qualified electors of the village voting at a general election favoring such a change in the use of the sinking fund.

(Neb. Rev. Stat. §19-1301 through 19-1304, 77-2337, 77-2339)

## **SECTION 1-512: COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE**

The village shall collect the special assessments which it levies and perform all other necessary functions related thereto, including foreclosure. Notice that special assessments are due shall be mailed or otherwise delivered to the last known address of the person against whom such special assessments are assessed or to the lending institution or other party responsible for paying such special assessments. Failure to receive such notice shall not relieve the taxpayer from any liability to pay such special assessments and any interest or penalties accrued thereon. The village shall file notice of the assessments and the amount of assessment being levied for each lot or tract of land to the register of deeds and shall then file a release of assessment upon final payment of each assessment with the register of deeds. (Neb. Rev. Stat. §18-1216)

## **SECTION 1-513: SPECIAL ASSESSMENT FUND**

All money received on special assessments shall be held by the village treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made and such money shall be used for no other purpose unless to reimburse the village for money expended for any such improvement. (Neb. Rev. Stat. §17-710)

## **SECTION 1-514: CONTRACTS; APPROPRIATION**

No contracts shall hereafter be made by the Board of Trustees or any committee or member thereof and no expense shall be incurred by any of the officers or departments of the village, whether the object of the expenditures shall be ordered by the



board or not, unless an appropriation shall have been previously made concerning such expense or the funds necessary for the payment of such expense have been duly transferred according to law. (Neb. Rev. Stat. §17-708, 17-709)

### **SECTION 1-515: CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS**

A. Except as provided in Neb. Rev. Stat. §18-412.01 for a contract with a public power district to operate, renew, replace, or add to the electric distribution, transmission, or generation system of the village, no contract costing over \$30,000.00 shall be made for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, unless it is first approved by the Village Board.

B. Except as provided in Neb. Rev. Stat. §18-412.01, before the Village Board makes any contract in excess of \$30,000.00 for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the village engineer and submitted to the Village Board. In advertising for bids as provided herein, the board may publish the amount of the estimate.

C. Advertisements for bids shall be required for any contract costing over \$30,000.00 entered into for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property or for the purchase of equipment used in the construction of such enlargement or general improvements.

D. The advertisement provided for in subsection (C) of this section shall be published at least seven days prior to the bid closing in a legal newspaper published in or of general circulation in the village or by posting a written or printed copy thereof in each of three public places in the village at least seven days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of or serious injury or damage to life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by Neb. Rev. Stat. §17-613 when adopted by a three-fourths vote of the Village Board and entered of record.

E. If, after advertising for bids as provided in this section, the Village Board receives fewer than two bids on a contract or if the bids received by the board contain a price which exceeds the estimated cost, the board may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost

commensurate with the estimate given.

F. If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the Village Board, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the village, the board may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.

G. Any village bidding procedure may be waived by the Village Board when materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in Neb. Rev. Stat. §81-145 to 81-162 or when the contract is negotiated directly with a sheltered workshop pursuant to Neb. Rev. Stat. §48-1503.

H. Notwithstanding any other provisions of law or a home rule charter, a village which has established by an interlocal agreement with any county a joint purchasing division or agency may purchase personal property without competitive bidding if the price for the property has been established by the federal General Services Administration or the materiel division of the Department of Administrative Services. For purposes of this subsection, (1) "personal property" includes but is not limited to supplies, materials, and equipment used by or furnished to any officer, office, department, institution, board, or other agency; and (2) "purchasing" or "purchase" means the obtaining of personal property by sale, lease, or other contractual means (Neb. Rev. Stat. §17-568.01, 17-568.02, 18-1756)

## **SECTION 1-516: ANNUAL AUDIT; FINANCIAL STATEMENTS**

A. The Village Board shall cause an audit of the village accounts to be made by a qualified accountant or shall prepare an unaudited statement of cash receipts and disbursements in lieu of an audit as expeditiously as possible following the close of the fiscal year. If an audit is authorized by the Village Board, it shall be made on a cash or accrual method at the discretion of the board and shall be completed within six months of the close of the fiscal year. In the event the village elects not to have an audit performed, the village treasurer shall prepare an unaudited statement of cash receipts and disbursements in a form prescribed by the state auditor and shall submit no fewer than three copies of the unaudited report to the Village Board. The state auditor may require an audit of any village account based upon information contained in its unaudited statement and may specify the period within which such audit must be performed.

B. All public utilities shall be audited separately and the results of such audits shall appear separately in the annual audit report. The audit shall be a form that is in general conformity with accepted accounting principles and shall set forth the financial position for each fund of the village as well as an opinion by the accountant with respect to the financial statements. Two copies of the annual report shall be filed with the village clerk, becoming a part of the public records of his or her office, and will at

all times thereafter be open for public inspection. One copy shall be filed with the state auditor of public accounts.

C. Any village may file an unaudited statement of cash receipts and disbursements annually in lieu of an annual audit. Such unaudited statement shall be filed with the auditor of public accounts in a form prescribed by him. The unaudited statement of cash receipts and disbursements shall become a part of the public records of the village clerk and shall at all times thereafter be open and subject to public inspection. Every village board that is required to submit to an audit of its accounts shall provide and file with the village clerk, not later than August 1 of each year, financial statements showing its actual and budgeted figures for the most recently completed fiscal year.

(Neb. Rev. Stat. §19-2901 through 19-2909, 13-606)

#### **SECTION 1-517: GENERAL FUND**

All money not specifically appropriated in the annual appropriation bill shall be deposited in and known as the general fund.

#### **SECTION 1-518: EXPENDITURES PRIOR TO ADOPTION OF BUDGET**

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

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

(Neb. Rev. Stat. §13-509.01, 13-509.02)

#### **SECTION 1-519: BUDGET STATEMENT; APPROPRIATIONS**

The Village Board shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill," in which are appropriated such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the village. (Neb. Rev. Stat. §17-706)



**SECTION 1-520: BUDGET PROCEDURE; FORM AND MANUAL  
INCORPORATED**

For the purpose of proper budget preparation, the *City/Village Budget Form* and the *Budget Form Instruction Manual*, prepared by the state auditor of public accounts, are incorporated by reference.

**SECTION 1-521: PROPOSED BUDGET STATEMENT**

A. The Village Board shall annually prepare a proposed budget statement on forms prescribed and furnished by the auditor of public accounts. The proposed budget statement shall be made available to the public prior to publication of the notice of the hearing on the proposed budget statement. A proposed budget statement shall contain the following information, except as provided by state law:

1. For the immediately preceding fiscal year, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately stated as to each such source: The unencumbered cash balance at the beginning and end of the year; the amount received by taxation of personal and real property; and the amount of actual expenditures;
2. For the current fiscal year, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds and separately stated as to each such source: The actual unencumbered cash balance available at the beginning of the year; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. Such statement shall contain the cash reserve for each fiscal year and shall note whether or not such reserve is encumbered. Such cash reserve projections shall be based upon the actual experience of prior years. The cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;
3. For the immediately ensuing fiscal year, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;
4. A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property (a) for the purpose

of paying the principal or interest on bonds issued by the Village Board 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 Village Proprietary Function Act, and a grand total of all funds maintained by the Village Board; and
6. A list of the proprietary functions which are not included in the budget statement. Such proprietary functions shall have a separate budget statement which is approved by the Village Board as provided in the Village 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. The village shall correct any material errors in the budget statement detected by the auditor of public accounts or by other sources.

C. The estimated expenditures plus the required cash reserve for the ensuing fiscal year less all estimated and actual unencumbered balances at the beginning of the year and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property, shall equal the amount to be received from taxes, and such amount shall be shown on the proposed budget statement pursuant to this section. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year. (Neb. Rev. Stat. §13-504, 13-505)

#### **SECTION 1-522: PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF AMOUNT RECEIVED FROM TAXATION**

A. The Village Board shall each year conduct a public hearing on its proposed budget statement. Notice of the place and time of the hearing, together with a summary of the proposed budget statement, shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation within the village. After the hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of such hearing.

B. 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 (1) the amount to be applied to the payment of principal or interest on bonds issued by the Village Board and (2) 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 such changes shall be published within 20 days after its adoption in the manner provided in this section but without provision for hearing, setting forth the items changed and the reasons for such changes.

D. 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. Rev. Stat. §13-506, 13-507)

### **SECTION 1-523: ADOPTED BUDGET; FILING, CERTIFICATION OF TAX**

A. The Village Board shall file with and certify to the levying board on or before September 20 of each year and file with the state auditor a copy of the adopted budget statement, together with the amount of tax to be levied, setting out separately the amount to be levied for the payment of principal or interest on bonds issued by the Village Board and the amount to be levied for all other purposes. Proof of publication shall be attached to the statements. The Village Board shall not certify any tax that exceeds the maximum levy prescribed by state law, except that in certifying the amount to be so levied, allowance may be made for delinquent taxes not exceeding 5% of the amount to be levied plus the actual percentage of delinquent taxes for the preceding tax year.

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

(Neb. Rev. Stat. §13-508)

### **SECTION 1-524: REVISION OF BUDGET**

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

1. There are circumstances which could not reasonably, have been anticipated at the time the budget for the current year was adopted;
2. The budget adopted violated Neb. Rev. Stat. §13-518 to 13-522 such



that the revenue of the current fiscal year for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with Neb. Rev. Stat. §13-518 to 13-522; or

3. The Village Board has been notified by the state auditor of a mathematical or accounting error or noncompliance with the Nebraska Budget Act.

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

1. The time and place of the hearing;
2. The amount in dollars of additional or reduced money required and for what purpose;
3. A statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year to meet the need for additional money in that manner;
4. A copy of the summary of the originally adopted budget previously published; and
5. A copy of the summary of the proposed revised budget.

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

D. Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the board, the board shall file with the county clerk and the state auditor a copy of the revised budget, as adopted, and shall certify the revised amount of tax to be levied. The Village Board may then issue warrants in payment for expenditures authorized by the adopted revised budget. Such warrants shall be referred to as "registered warrants" and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

E. Within 30 days after the adoption of the budget under Neb. Rev. Stat. §13-506, the Village Board may, or within 30 days after notification of an error by the state auditor, the Village Board shall, correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than 1% or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the board shall file a copy

of the corrected budget with the county clerk and with the state auditor. The village Board may then issue warrants in payment for expenditures authorized by the budget.

(Neb. Rev. Stat. §13-511)

#### **SECTION 1-525: EMERGENCY; TRANSFER OF FUNDS; HEARING**

A. Whenever during the current fiscal year or biennial period it becomes apparent to the Village Board that due to unforeseen emergencies there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the board may by a majority vote, unless otherwise provided by state law, transfer money from other funds to such fund. No expenditure during any fiscal year or biennial period shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized in Neb. Rev. Stat. §13-511. Any officer or officers of any governing body who obligates funds contrary to the provisions of this section shall be guilty of a Class V misdemeanor.

B. If, as the result of unforeseen circumstances, the revenue of the current fiscal year shall be insufficient, the Village Board may propose to supplement the previously adopted budget statement and shall conduct a public hearing at which time any taxpayer may appear, or file a written statement protesting the application for additional money. A written record shall be kept of all such hearings. Notice of a place and time for the said hearing shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation in the village. The published notice shall set forth the time and place of the proposed hearing, the amount of additional money required, the purpose of the required money, a statement setting forth the reasons why the adopted budget of expenditures cannot be reduced to meet the need for additional money, and a copy of the summary of the originally adopted budget previously published.

C. Upon the conclusion of the public hearing on the proposed supplemental budget and approval by the Village Board, the board shall file with the county clerk and the state auditor a copy of the supplemental budget and shall certify the amount of additional tax to be levied. The Village Board may then issue warrants in payment for expenditures authorized by the adopted supplemental budget. The said warrants shall be referred to as "registered warrants" and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

(Neb. Rev. Stat. §13-510, 13-511)

#### **SECTION 1-526: PROPERTY TAX LEVY AND REQUEST; AUTHORITY TO SET**

A. The property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization in Neb. Rev. Stat. §77-1601 unless the Board of Trustees passes by majority vote a resolution or ordinance setting the tax request at a different amount. Such resolution or ordinance shall only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in the

area of the village at least five days prior to the hearing.

B. The hearing notice shall contain the following information:

1. The dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request;
2. The property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and
3. The proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request.

C. Any resolution setting a tax request under this section shall be certified and forwarded to the county clerk prior to October 14 of the year for which the tax request is to apply.

D. Any tax levy which is not in compliance with this section and Neb. Rev. Stat. §77-1601 shall be construed as an unauthorized levy under Neb. Rev. Stat. §77-1606.

(Neb. Rev. Stat. §77-1601, 77-1601.02)

#### **SECTION 1-527: 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 subsection except as provided in subsections (C) and (D) of this section. The village may levy a maximum levy of 45¢ per \$100.00 of taxable valuation of property subject to the levy plus an additional 5¢ per \$100.00 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. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. Rev. Stat. §51-201, museum pursuant to Neb. Rev. Stat. §51-501, visiting community nurse, home health nurse, or home health agency pursuant to Neb. Rev. Stat. §71-1637, or statue, memorial, or monument pursuant to Neb. Rev. Stat. §80-202. Property tax levies for judgments obtained against the village which require or obligate the village to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of the village, for preexisting lease-purchase contracts approved prior to July 1, 1998, and for bonded indebtedness approved according to law and secured by a levy on property are not included in the levy limits established by this subsection. The limitations on tax levies provided in this subsection 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 subsection 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. Rev. Stat. §77-1606 unless approved under subsection (C) or (D) of this section.

B. All 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's levy limit provided by subsection (A) of this section, except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, and for bonded indebtedness approved according to law and secured by a levy on property. The Village Board shall review and approve or disapprove the levy requests of the political subdivisions subject to this subsection. The Village Board may approve all or a portion of each 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 Neb. Rev. Stat. §77-3444.

C. On or before August 1, all political subdivisions subject to municipal levy authority under this subsection shall submit a preliminary request for levy allocation to the Village Board. The preliminary request of the political subdivision shall be in the form of a resolution adopted by a majority vote of members present of the political subdivision's governing body. The failure of a political subdivision to make a preliminary request shall preclude such political subdivision from using procedures set forth in Neb. Rev. Stat. §77-3444 to exceed the final levy allocation as determined in this subsection.

D. The Village Board shall adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions and forward a copy of such resolution to the chairman of the governing body of each of its political subdivisions.

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

F. The village may exceed the limits provided in subsection (A) of this section 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.

G. The Village Board may call for the submission of the issue to the voters (1) by passing a resolution calling for exceeding the limits by a vote of at least two-thirds of the board members and delivering a copy of the resolution to the election commissioner of every county which contains all or part of the village or (2) upon receipt of a petition by the county clerk requesting an election signed by at least 5% of the registered voters residing in the village. The petition shall be in the form as provided in Neb. Rev. Stat. §32-628 through 32-631.

H. The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in subsection (A) of this section and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than five years. Any resolution or petition calling for a special election

shall be filed with the county clerk no later than 30 days prior to the date of the election, and the time of publication and providing a copy of the notice of election required in Neb. Rev. Stat. §32-802 shall be no later than 20 days prior to the election.

I. The county clerk shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition. The election shall be held pursuant to the Election Act.

J. Any excess levy authority approved under this subsection shall terminate pursuant to its terms, on a vote of the Village Board 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 subsection (H) of this section, whichever is earliest.

K. The Village Board may pass no more than one resolution calling for an election pursuant to this subsection during any one calendar year. There shall be no limit on the number of elections held pursuant to this subsection which are initiated by petition. The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the language specified in Neb. Rev. Stat. §77-3444.

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

M. In lieu of the election procedures in subsection (C) of this section, the village may approve a levy in excess of the limits in subsection (A) of this section 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. 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 said 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 or final allocation, the limit or allocation shall not be exceeded and the village shall have no power to call for an election under division (C) of this section.

N. 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.



O. The Village Board may call for the submission of the issue to the voters by passing a resolution calling for the rescission or modification by a vote of at least two-thirds of the members of the Village Board and delivering a copy of the resolution to the county clerk or upon request of a petition by the election commissioner requesting an election signed by at least 5% of the registered voters residing in the village.

P. The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either such excess levy authority will be rescinded or such excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of such modification shall be stated. The modification shall not have a duration greater than five years. The county clerk shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition, and the time of publication and providing a copy of the notice of election required in Neb. Rev. Stat. §32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act.  
(Neb. Rev. Stat. §77-3442 through 77-3444)

#### **SECTION 1-528: ALL-PURPOSE LEVY; ALLOCATION; ABANDONMENT; EXTRAORDINARY LEVY**

A. The Village Board has decided to certify to the county clerk for collection one all-purpose levy required to be raised by taxation for all municipal purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits in Neb. Rev. Stat. §77-3442, the all-purpose levy shall not exceed the annual levy specified in Neb. Rev. Stat. §19-1309 to be levied upon the taxable valuation of all taxable property in the village.

B. The amount of the all-purpose levy shall be certified as a single amount for general fund purposes. The Village Board shall allocate the amount raised by the all-purpose levy to the several departments of the village in its annual budget and appropriation ordinance or in other legal manner as the Village Board deems wisest and best.

C. The village shall be bound by its election to follow the all-purpose levy method during the ensuing fiscal year but may abandon such method in succeeding fiscal years.

D. Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the village may be made by the village in addition to the all-purpose levy.  
(Neb. Rev. Stat. §19-1309 through 19-1312)

#### **SECTION 1-529: INADEQUATE VALUATION**

If the valuation of the village has been reduced so that the maximum levy permitted by this article is inadequate to produce the necessary revenue, said maximum levy may be exceeded upon presentation to the Village Board of petitions signed by a ma-



jority of the registered voters of the village requesting such action and specifying the extent to, and the period of time, not to exceed five years, in which such maximum may be exceeded. No signature may be withdrawn after the petitions have been filed with the board. The board shall cause such petitions, accompanied by the certificate of the county clerk that he or she has examined the petitions and that they have been signed by a majority of the registered voters of the village, to be filed with the County Board. After such filing, the board may exceed the maximum mill levy to the extent and for the period of time specified in the petitions. (Neb. Rev. Stat. §19-1309)

#### **SECTION 1-530: GENERAL PROPERTY TAX**

The Village Board shall cause to be certified to the county clerk the amount of tax to be levied upon the assessed value of all the taxable property of the village for the requirements of the adopted budget for the ensuing year, including all special assessments and taxes. The maximum amount of tax which may be certified and assessed shall not require a tax levy in excess of the legal maximum as prescribed by state law. (Neb. Rev. Stat. §17-702)

#### **SECTION 1-531: MOTOR VEHICLE TAX**

The Village Board may levy a tax on all motor vehicles owned or used in the village, which tax shall be paid to the county treasurer when the registration fees as provided in Neb. Rev. Stat. §60-329 to 60-339 are paid. Such taxes shall be credited by the county treasurer to the road fund of the village. Such funds shall be used by such city for constructing, resurfacing, maintaining, or improving streets, roads, alleys, public ways, or parts thereof for the amortization of bonded indebtedness when created for such purposes. (Neb. Rev. Stat. §18-1214)

## **Article 6 – Elections**

### **SECTION 1-601: BOARD OF TRUSTEES**

A. Board members shall be elected from the village at large unless the residents have voted to elect their board members by wards. Board members shall be residents and qualified electors. Except as provided in Neb. Rev. Stat. §17-202, the term of each trustee shall be four years or until his or her successor is elected and qualified.

B. If the election of board members takes place by wards, each nominee shall be a resident and qualified elector of the ward for which he or she is a candidate and only residents of that ward may sign the candidate's nomination petitions.  
(Neb. Rev. Stat. §17-202, 17-203, 32-532, 32-554)

### **SECTION 1-602: ELECTION OF OFFICERS; CERTIFICATION**

All village elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide general election. No later than January 5 of each even-numbered year, the Village Board shall certify to the secretary of state or the county clerk the name of the village, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining terms and the number of votes to be cast by a registered voter for each office. (Neb. Rev. Stat. §32-404(2), 32-556)

### **SECTION 1-603: ELECTIONS GENERALLY**

A. All village issues and offices shall be combined on the statewide primary and general election ballots whenever possible. The issuance of separate ballots shall be avoided in a statewide election if village offices or issues can reasonably be combined with the nonpartisan ballot and state law does not require otherwise.

B. When the village holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act. Any other election by the village shall be held as provided in the Election Act unless otherwise provided by the charter, code, or bylaws of the village.  
(Neb. Rev. Stat. §32-404(1), 32-556)

### **SECTION 1-604: JOINT, GENERAL; NOTICE**

The notice of election required to be published by the county clerk no less than 40 days prior to an election shall serve as the notice requirement for all village elections which are held in conjunction any other election. (Neb. Rev. Stat. §32-802)

### **SECTION 1-605: SPECIAL ELECTION**

A. Any issue to be submitted to the registered voters at a special election by

the village shall be certified by the village clerk to the county clerk at least 50 days prior to the election or as prescribed by special legislation. A special election may be held by mail as provided in Neb. Rev. Stat. §32-952 through 32-959. No special election to be conducted by the county clerk shall be held within 30 days prior to or 60 days after the statewide primary election and no special election to be conducted by the county clerk shall be held within 30 days prior to or 60 days after the statewide general election.

B. In lieu of submitting the issue at a special election, the village may submit the issue at a statewide primary or general election or at any scheduled county election, except that no such issue shall be submitted at a statewide election or scheduled county election unless the issue to be submitted has been certified by the village clerk to the county clerk by March 1 for the primary election and by September 1 for the general election.

C. After the county clerk has received the certification of the issue to be submitted, he or she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the village clerk shall be responsible for the publication or posting of any required special notice of the submission of such issue other than the notice required to be given of the statewide election issues. The county clerk shall prepare the ballots and issue absentee ballots and shall also conduct the submission of the issue, including the receiving and counting of ballots on the issue. The election returns shall be made to the county clerk. The ballots, including absentee ballots, shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the County Canvassing Board, the county clerk shall certify the election results to the Village Board. The canvass by the Canvassing Board shall have the same force and effect as if made by the Village Board.

D. Any special election under the Election Act shall be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically provided. No special election shall be held under the Election Act in April, May, June, October, November or December of an even-numbered year unless it is held in conjunction with the statewide primary or general election.  
(Neb. Rev. Stat. §32-559, 32-405)

## **SECTION 1-606: PETITION CANDIDATES**

A. Petitions for nomination of candidates for Village Board shall conform to the requirements of Neb. Rev. Stat. §32-628. Petitions shall state the office to be filled and the name and address of the candidate. A sample copy of the petition shall be filed with the filing officer prior to circulation. Petitions for partisan office shall also indicate the party affiliation of the candidate. Petitions shall be signed by registered voters residing in the village and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. Rev. Stat. §32-607. Petition signers and petition circulators shall conform to the requirements of Neb. Rev. Stat. §32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto



a receipt showing the payment of the filing fee required. Such petitions shall be filed by September 1 in the year of the general election.

B. The number of signatures of registered voters needed to place the name of a candidate upon the ballot for a village office for the general election shall be as follows:

1. Nonpartisan ballot: at least 10% of the total number of registered voters voting for governor or president of the United States at the immediately preceding general election in the village, not to exceed 2,000.
2. Partisan ballot: at least 20% of the total vote for governor or president of the United States at the immediately preceding general election within the village, not to exceed 2,000.

C. The filing officer shall verify the signatures according to Neb. Rev. Stat. §32-631. Within three days after the signatures on a petition for nomination have been verified pursuant to such section and the filing officer has determined that pursuant to Neb. Rev. Stat. §32-618 a sufficient number of registered voters signed the petitions, the filing officer shall notify the candidate so nominated by registered or certified mail and the candidate shall, within five days after the date of receiving such notification, file with such officer his or her acceptance of the nomination or his or her name will not be printed on the ballot.

D. A candidate placed on the ballot by petition shall be termed a candidate by petition. The words "By Petition" shall be printed upon the ballot after the name of each candidate by petition.  
(Neb. Rev. Stat. §32-617)

## **SECTION 1-607: CAUCUS CANDIDATES**

The Village Board may by ordinance call a caucus for the purpose of nominating candidates for offices to be filled in the village election. Such caucus shall be held at least ten days prior to the filing deadline for such election. Notice of such caucus must be published at least once in each of two consecutive weeks prior to said caucus in a newspaper of general circulation in the village. The village clerk shall notify the person so nominated of his or her nomination and such notification shall take place no fewer than five days after the said caucus. A candidate so nominated shall not have his or her name placed upon the ballot unless, not more than ten days after the holding of such caucus, he or she shall have filed with the village clerk a written statement accepting the nomination of the caucus and shall have paid the filing fee, if any, for the office for which he or she was nominated. (Neb. Rev. Stat. §17-601.01, through 7-601.03)

## **SECTION 1-608: FILING FEE**

A. Except as provided in subsection (C) or (D) of this section, a filing fee shall

be paid to the village treasurer by or on behalf of each candidate prior to filing for office. The fee shall be placed in the general fund of the village. No candidate filing forms shall be filed until the proper receipt showing payment of such filing fee is presented to the filing officer.

B. All declared write-in candidates shall pay the filing fees that are required for the office at the time that they present the write-in affidavit to the filing officer. Any undeclared write-in candidate who is nominated or elected by write-in votes shall pay the filing fee required for the office within 10 days after the canvass of votes by the Canvassing Board and shall file the receipt with the person issuing the certificate of nomination or the certificate of election prior to the certificate being issued.

C. No filing fee shall be required on any candidate filing for an office in which a per diem is paid rather than a salary or for which there is a salary of less than \$500.00 per year.

D. No filing fee shall be required of any candidate completing an affidavit requesting to file for elective office in forma pauperis. "Pauper" shall mean a person whose income and other resources for maintenance are found under assistance standards to be insufficient for meeting the cost of his or her requirements and whose reserve of cash or other available resources does not exceed the maximum available resources that an eligible individual may own. "Available resources" shall include every type of property or interest in property that an individual owns and may convert into cash except real property used as a home, household goods of a moderate value used in the home and assets up to a maximum value of \$3,000.00 which are used by a recipient in a planned effort directed towards self-support.

E. If any candidate dies prior to an election, the spouse of the candidate may file a claim for refund of the filing fee with the Village Board prior to the date of the election. Upon approval of the claim by the board, the filing fee shall be refunded. (Neb. Rev. Stat. §32-608)

## **SECTION 1-609: BALLOTS**

The county clerk shall provide printed ballots for every general or special village election and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the village. (Neb. Rev. Stat. §32-805, 32-1202)

## **SECTION 1-610: EXIT POLLS**

No person shall conduct any exit poll, public opinion poll or any other interview with voters on election day seeking to determine voter preference within 20 feet of the entrance to any polling place or, if inside the polling place or building, within 100 feet of any voting booth. (Neb. Rev. Stat. §32-1525)



**SECTION 1-611: CERTIFICATE OF NOMINATION OR ELECTION**

A. The county clerk shall, within 40 days after the election, prepare, sign and deliver a certificate of nomination or a certificate of election to each person whom the Canvassing Board has declared to have received the highest vote for each village office. No person shall be issued a certificate of nomination as a candidate of a political party unless such person has received a number of votes at least equal to 5% of the total ballots cast at the primary election by registered voters affiliated with that political party in the district which the office for which he or she is a candidate serves.

B. A certificate of election prepared by the county clerk shall be in the form as nearly as possible to that prescribed in Neb. Rev. Stat. §32-1033 and shall be signed by the chairman of the Board of Trustees under the seal of the village and countersigned by the village clerk.

(Neb. Rev. Stat. §32-558, 32-1033)

**SECTION 1-612: RECALL PROCEDURE**

A. Any or all of the elected officials of the village may be removed from office by recall pursuant to Neb. Rev. Stat. §32-1301 to 32-1309.

B. The petition papers shall be procured from the village clerk. Each petition paper shall conform to the requirements of state law. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the village clerk by at least one registered voter. Such voter or voters shall be deemed to be the principal circulator(s) of the recall petition. The affidavit shall state the name and office of the official sought to be removed and shall request that the village clerk issue initial petition papers to the principal circulator for circulation. The village clerk shall notify the principal circulator that the necessary signatures must be gathered within 30 days from the date of issuing petitions.

C. The village clerk, upon issuing the initial petition papers or any subsequent petition papers, shall enter in a record to be kept in his or her office the name of the principal circulator to whom the papers were issued, the date of issuance, and the number of papers issued. The village clerk shall certify on the papers the name of the principal circulator to whom the papers were issued and the date they were issued. No petition paper shall be accepted as part of the petition unless it bears such certificate. The principal circulator who checks out petitions from the village clerk may distribute such petitions to registered voters residing in the village who may act as circulators of such petitions.

D. Petition signers shall conform to the requirements of the Election Act. Each signer of a recall petition shall be a registered voter and qualified by his or her place of residence to vote for the office in question on the date of the issuance of the initial petition papers.



E. A petition demanding that the question of removing a member of the Village Board be submitted to the registered voters shall be signed by registered voters equal in number to at least 35% of the total vote cast for the person receiving the most votes for that office in the last general election.

F. The principal circulator shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the village clerk within 30 days after the village clerk issues the initial petition papers to the principal circulator. Within 15 days after the filing of the petition, the village clerk shall ascertain whether or not the petition is signed by the requisite number of registered voters. No new signatures may be added after the initial filing of the petition papers. No signature may be removed unless the village clerk receives an affidavit signed by the person requesting his or her signature be removed before the petitions are filed with the village clerk for signature verification. If the petition is found to be sufficient, the village clerk shall attach to the petition a certificate showing the result of such examination. If the requisite number of signatures has not been gathered, the village clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose.

G. If the recall petition is found to be sufficient, the village clerk shall notify the official whose removal is sought and the Village Board that sufficient signatures have been gathered. If the official does not resign within five days after receiving the notice, the Village Board shall order an election to be held not less than 30 nor more than 45 days after the expiration of the five-day period, except that if any other election is to be held in the village within 90 days of the expiration of the five-day period, the Village Board shall provide for the holding of the removal election on the same day. After the board sets the date for the recall election, the recall election shall be held regardless of whether the official whose removal is sought resigns before the recall election is held.

H. If a majority of the votes cast at a recall election are against the removal of the official named on the ballot or if the election results in a tie, the official shall continue in office for the remainder of his or her term but may be subject to further recall attempts as provided in Subsection (J) of this section. If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the official is deemed removed, the removal shall result in a vacancy in the office which shall be filled as otherwise provided in this code and state law. If the election results show a margin of votes equal to 1% or less between the removal or retention of the official in question, the county clerk shall order a recount of the votes cast unless the official named on the ballot files a written statement with the village clerk that he or she does not want a recount. If there are vacancies in the offices of a majority or more of the members of the Village Board at one time due to the recall of such members, a special election to fill such vacancies shall be conducted as expeditiously as possible by the county clerk.

I. No official who is removed at a recall election or who resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal or the removal of another member of the Village Board during the remainder of his or her term of office.

J. No recall petition shall be filed against an elected official within 12 months after a recall election has failed to remove him or her from office or within six months after the beginning of his or her term of office or within six months prior to the incumbent filing deadline for the office.

K. If an official is recalled or a vacancy needs to be filled as the result of a recall petition, the village shall pay the costs of the recall procedure and any special election held as a result of a recall election. If a recall election is canceled pursuant to Neb. Rev. Stat. §32-1306, the village shall be responsible for costs incurred related to the canceled election. The costs shall include all chargeable costs as provided in Neb. Rev. Stat. §32-1202 associated with preparing for and conducting a recall or special election.

(Neb. Rev. Stat. §32-1301 through 32-1309)

## **Article 7 – Penal Provision**

### **SECTION 1-701: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.



## **CHAPTER 2 – COMMISSIONS AND BOARDS**

### **ARTICLE 1 – PARK BOARD**

**SECTION 2-101: OPERATION AND FUNDING; BOARD AUTHORITY**

**SECTION 2-102: PARKS; MANAGEMENT**

### **ARTICLE 2 – BOARD OF HEALTH**

**SECTION 2-201: INTERLOCAL AGREEMENT**

**SECTION 2-202: MEMBERS; TERMS**

**SECTION 2-203: OFFICERS; MEETINGS**

**SECTION 2-204: DUTIES**

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### **ARTICLE 3 – PLANNING COMMISSION**

**SECTION 2-301: MEMBERS**

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### **ARTICLE 4 – PENAL PROVISION**

**SECTION 2-401: VIOLATION; PENALTY**

## **CHAPTER 2 – COMMISSIONS AND BOARDS**

### **Article 1 – Park Board**

#### **SECTION 2-101: OPERATION AND FUNDING; BOARD AUTHORITY**

A. The village owns and operates the parks and other recreational areas through the Park Board. The Village Board, for the purpose of defraying the cost of the care, management, and maintenance of the village parks, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the park fund and shall remain in the custody of the village treasurer.

B. The board members shall have the authority to adopt rules and regulations for the efficient management of the village parks and other recreational areas of the village. The Park Board shall not enter into a contract of any nature which involves an expenditure of funds, except for ordinary operating expenses, unless the contract has been approved by resolution of the Village Board prior to the contractual agreement. (Neb. Rev. Stat. §17-948 through 17-952)

#### **SECTION 2-102: PARKS; MANAGEMENT**

The utilities superintendent shall have the responsibility for the direct management and operation of the municipal parks, subject to the general control and directives of the Park Board. He shall make a detailed report to the board on the condition of the municipal parks and shall direct its attention to such improvements, repairs and other items as he may believe are needed, along with an estimate of the cost thereof. He shall have such other duties as the Park Board may delegate to him. (Neb. Rev. Stat. §17-214, 17-541, 17-543)

## **Article 2 – Board of Health**

### **SECTION 2-201: INTERLOCAL AGREEMENT**

The village is authorized to enter into an interlocal agreement with the Lancaster County Board of Health for the purpose of enforcing the rules and regulations of the Village Board of Health. Any such agreement shall be on file in the office of the village clerk for public inspection during office hours. (Neb. Rev. Stat. §13-804)

### **SECTION 2-202: MEMBERS; TERMS**

The Village Board shall appoint a Board of Health consisting of three members, including the chairman of the Village Board, who shall serve as chairman, and two other members. One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the medical advisor. If the Village Board has appointed a police chief, he may be appointed to the Board of Health and serve as secretary and quarantine officer. The members of the board shall serve one-year terms of office, unless removed by the chairman of the Board of Trustees with the advice and consent of the trustees. (Neb. Rev. Stat. §17-208)

### **SECTION 2-203: OFFICERS; MEETINGS**

The members of the board shall reorganize at the first meeting in December of each year. No member of the Board of Health shall hold more than one Board of Health position. The secretary shall keep full and correct minutes and records of all meetings and file the same with the village clerk, where they shall be available for public inspection during office hours. A majority of the board shall constitute a quorum for the purpose of doing business. The board shall meet at such times as the Village Board may designate. Special meetings may be held upon the call of the chairman or any two members of the board.

### **SECTION 2-204: DUTIES**

It shall be the duty of the Board of Health to enact rules and regulations, which shall have the full force and effect of law to safeguard the health of the people of the village. The board shall enforce the rules and regulations and provide fines and punishments for any violations thereof. It may regulate, suppress, and prevent the occurrence of nuisances and shall actively enforce all state laws and village ordinances relating to nuisances and matters of sanitation which affect the health and safety of the people. The board shall regularly inspect such premises and businesses as the Village Board may direct and shall be responsible for making such reports, prescribing such penalties, and performing such other duties as the Village Board may designate from time to time. All actions of the Board of Health shall be subject to the review and supervision of the Village Board. (Neb. Rev. Stat. §17-208)



**SECTION 2-205: ENFORCEMENT OFFICIAL**

The police chief, if appointed as the quarantine officer, shall be the chief health officer of the village. It shall then be his duty to notify the Village Board and the Board of Health of health nuisances within the village and its zoning jurisdiction. (Neb. Rev. Stat. §17-208)

**SECTION 2-206: STATE RULES**

The publication *Rules and Regulations Relating to Public Health*, Department of Health of the State of Nebraska, is hereby incorporated by reference when the same is applicable to the village, in its present form and as it may hereafter be amended. One copy of the said publication shall be filed at the office of the village clerk, available for public inspection during office hours. (Neb. Rev. Stat. §18-132)

## **Article 3 – Planning Commission**

(Neb. Rev. Stat. §19-924 through 19-929)

### **SECTION 2-301: MEMBERS**

The Planning Commission shall consist of seven members who shall represent, insofar as is possible, the different professions or occupations in the village and shall be appointed by the chairman by and with the approval of a majority vote of the Village Board. Two of the regular members may be residents of the area over which the village is authorized to exercise extraterritorial zoning and subdivision regulation. When there is a sufficient number of residents in the area over which the village exercises extraterritorial zoning and subdivision regulation, one regular member of the commission shall be a resident from such area. If it is determined by the Village Board that a sufficient number of residents reside in the area subject to extraterritorial zoning and subdivision regulation and no such resident is a regular member of the commission, the first available vacancy on the commission shall be filled by the appointment of such an individual. For purposes of this section, “a sufficient number of residents” shall mean 200 residents. All regular members of the commission shall serve without compensation and shall hold no other village office except when appointed to serve on the Board of Adjustment as provided in Neb. Rev. Stat. §19-908.

### **SECTION 2-302: ALTERNATE MEMBER**

The chairman, with the approval of a majority vote of the Board of Trustees, may by ordinance provide for the appointment of one alternate member to the commission, who shall serve without compensation and shall hold no other village office. The term of the alternate member shall be three years and he or she shall hold office until his or her successor is appointed and approved. The alternate member may be removed from office in the same manner as a regular member. If the alternate member position becomes vacant other than through the expiration of the term, the vacancy shall be filled for the unexpired portion of the term by the chairman with the approval of a majority of the Board of Trustees. The alternate member may attend any meeting and may serve as a voting and participating member of the commission at any time when less than the full number of regular commission members is present and capable of voting.

### **SECTION 2-303: TERMS; VACANCIES**

The term of each regular Planning Commission member shall be three years. All regular members shall hold office until their successors are appointed. Any member may, after a public hearing before Board of Trustees, be removed by the chairman with the consent of a majority vote of the board members for inefficiency, neglect of duty or malfeasance in office, or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by the chairman.

**SECTION 2-304: OFFICERS; MEETINGS**

The Planning Commission shall elect its chairman from its members and create and fill such other of its offices as it may determine. The term of the chairman shall be one year and he or she shall be eligible for reelection. The commission shall hold at least one regular meeting in each calendar quarter, except the Village Board may require the commission to meet more frequently and the chairman of the commission may call for a meeting when necessary to deal with business pending before the commission. A number of commissioners equal to a majority of the number of regular members appointed to the commission shall constitute a quorum for the transaction of any business. The commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record.

**SECTION 2-305: FUNDING**

The Village Board may provide the funds, equipment and accommodations necessary for the work of the Planning Commission but its expenditures, exclusive of gifts, shall be within the amounts appropriated for that purpose by the board; and no expenditures nor agreements for expenditures shall be valid in excess of such amounts.

**SECTION 2-306: POWERS AND DUTIES; APPEAL**

A. Except as provided in Neb. Rev. Stat. §19-930 to 19-933, the Planning Commission shall (1) make and adopt plans for the physical development of the village, including any areas outside its boundaries which in the commission's judgment bear relation to the planning of such village and including a Comprehensive Development Plan as defined by Neb. Rev. Stat. §19-903; (2) prepare and adopt such implemental means as a capital improvement program, subdivision regulations, building codes, and a zoning ordinance in cooperation with other interested municipal departments; and (3) consult with and advise public officials and agencies, public utilities, civic organizations, educational institutions, and citizens with relation to the promulgation and implementation of the Comprehensive Development Plan and its implemental programs. The commission may delegate authority to any such group to conduct studies and make surveys for the commission, make preliminary reports on its findings, and hold public hearings before submitting its final reports. The Village Board shall not take final action on matters relating to the Comprehensive Development Plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning until it has received the recommendation of the Planning Commission. The Village Board shall by ordinance set a reasonable time within which the recommendation from the Commission is to be received. A recommendation from the commission shall not be required for subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights-of-way or easements is involved, and such subdivision complies with the ordinance requirements concerning minimum areas and dimensions of



such lots and blocks, if the Village Board has designated, by ordinance, an agent pursuant to Neb. Rev. Stat. §19-916.

B. The commission may, with the consent of the Village Board, in its own name (1) make and enter into contracts with public or private bodies, (2) receive contributions, bequests, gifts, or grant funds from public or private sources, (3) expend the funds appropriated to it by the village, (4) employ agents and employees, and (5) acquire, hold, and dispose of property. The commission may on its own authority make arrangements consistent with its program, conduct or sponsor special studies or planning work for any public body or appropriate agency, receive grants, remuneration, or reimbursement for such studies or work, and at its public hearings, summon witnesses, administer oaths, and compel the giving of testimony.

C. The commission may grant conditional uses or special exceptions to property owners for the use of their property if the Village Board has, through a zoning ordinance or special ordinance, generally authorized the commission to exercise such powers and has approved the standards and procedures adopted by the commission for equitably and judiciously granting such conditional uses or special exceptions. The granting of a conditional use permit or special exception shall only allow property owners to put their property to a special use if it is among those uses specifically identified in the zoning ordinance as classifications of uses which may require special conditions or requirements to be met by the owners before a use permit or building permit is authorized. The power to grant conditional uses or special exceptions shall be the exclusive authority of the commission, except that the Village Board may choose to retain for itself the power to grant conditional uses or special exceptions for those classifications of uses specified in the zoning ordinance. The Village Board may exercise such power if it has formally adopted standards and procedures for granting such conditional uses or special exceptions in a manner that is equitable and will promote the public interest. An appeal of a decision by the commission or Village Board regarding a conditional use or special exception shall be made to the district court.

## **Article 4 – Penal Provision**

### **SECTION 2-401: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

## **CHAPTER 3 – MISDEMEANORS**

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- SECTION 3-102: RESISTING OR FAILING TO ASSIST OFFICER**
- SECTION 3-103: IMPERSONATING OFFICER**
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## **CHAPTER 3 – MISDEMEANORS**

### **Article 1 – General Misdemeanors**

#### **SECTION 3-101: OBSTRUCTING AN OFFICER**

It shall be unlawful for any person to use or threaten to use violence, force, physical interference, or obstacle to intentionally obstruct, impair or hinder the enforcement of the penal law or the preservation of the peace by a peace officer acting under color of his or her official authority. (Neb. Rev. Stat. §28-906)

#### **SECTION 3-102: RESISTING OR FAILING TO ASSIST OFFICER**

It shall be unlawful for any person in this village to hinder, obstruct or resist any police officer in making any arrest or performing any duty of his or her office or to refuse or neglect to assist any such officer when called upon by him or her in making any arrest or conveying a prisoner to jail. (Neb. Rev. Stat. §28-903, 28-904)

#### **SECTION 3-103: IMPERSONATING OFFICER**

It shall be unlawful for any person to falsely pretend to be a peace officer and perform any act in that pretended capacity. (Neb. Rev. Stat. §28-610) (Class 1)

#### **SECTION 3-104: IMPERSONATING A PUBLIC SERVANT**

It shall be unlawful for any person to falsely pretend to be a public servant other than a peace officer and perform any act in that pretended capacity. It is no defense that the office the actor pretended to hold did not in fact exist. (Neb. Rev. Stat. §28-609) (Class 3)

#### **SECTION 3-105: RESISTING ARREST WITHOUT THE USE OF A DEADLY OR DANGEROUS WEAPON**

A. It shall be unlawful for any person to intentionally prevent or attempt to prevent a law enforcement officer, acting under color of his or her official authority, from effecting an arrest on said person or on another by (1) using or threatening to use physical force or violence against the said officer or another; (2) using any other means which creates a substantial risk of causing physical injury to the officer or another; or (3) employing means which require substantial force to overcome resistance to effecting the arrest; provided, this section shall apply only to those actions taken to resist arrest without the use of a deadly or dangerous weapon.

B. It is an affirmative defense to prosecution under this section if the officer involved was out of uniform and did not identify himself or herself as a law enforcement officer by showing his or her credentials to the person whose arrest is attempted. (Neb. Rev. Stat. §28-904)

**SECTION 3-106: CONCEALED WEAPONS**

Except as otherwise provided in this section, any person who carries a weapon or weapons concealed on or about his or her person such as a revolver, pistol, bowie knife, dirk or knife with a dirk blade attachment, brass or iron knuckles, or any other deadly weapon commits the offense of carrying a concealed weapon. This section shall not apply to a person who is the holder of a valid permit issued under the Concealed Handgun Permit Act if the concealed weapon which the offender is carrying is a handgun as defined in Neb. Rev. Stat. §69-2429. (Neb. Rev. Stat. §28-1202)

**SECTION 3-107: DISCHARGE OF FIREARM; GENERALLY**

It shall be unlawful for any person, except an officer of the law in the performance of his or her official duty, to fire or discharge any gun or pistol within the village; provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the Village Board. (Neb. Rev. Stat. §17-556) (Class 5)

**SECTION 3-108: DISCHARGE OF FIREARM OR WEAPON FROM ANY PUBLIC HIGHWAY, ROAD OR BRIDGE**

It shall be unlawful for any person to discharge any firearm or weapon using any form of compressed gas as a propellant from any public highway, road or bridge in this state. (Neb. Rev. Stat. §28-1335) (Class 3)

**SECTION 3-109: STALKING**

A. Any person who willfully harasses another person or a family or household member of such person with the intent to injure, terrify, threaten, or intimidate commits the offense of stalking.

B. For purposes of this section, the following definitions shall apply:

1. "Harass" means to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens, or intimidates the person and which serves no legitimate purpose;
2. "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including a series of acts of following, detaining, restraining the personal liberty of or stalking the person or telephoning, contacting, or otherwise communicating with the person;
3. "Family or household member" means a spouse or former spouse of the victim, children of the victim, a person presently residing with the victim or who has resided with the victim in the past, a person who had a child



in common with the victim, other persons related to the victim by consanguinity or affinity, or any person presently involved in a dating relationship with the victim or who has been involved in a dating relationship with the victim. For purposes of this subdivision, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement but does not include a casual relationship or an ordinary association between persons in a business or social context;

(Neb. Rev. Stat. §28-311.02, 28-311.03, 28-311.04)

### **SECTION 3-110: CRIMINAL TRESPASS**

It shall be unlawful for any person, knowing that he or she is not licensed or privileged to do so:

A. To enter or secretly remain in any building or occupied structure, or any separately secured or occupied portion thereof; or

B. To enter or remain in any place as to which notice against trespass is given by (1) actual communication to the actor; or (2) posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or (3) fencing or other enclosure manifestly designed to exclude intruders.

(Neb. Rev. Stat. §28-520, 28-521) (Class 1, 2, or 3)

### **SECTION 3-111: PUBLIC INDECENCY**

It shall be unlawful for any person 18 years of age or over to perform, procure or assist any other person to perform in a public place and where the conduct may reasonably be expected to be viewed by members of the public:

A. An act of sexual penetration as defined by Neb. Rev. Stat. §28-318(5);

B. An exposure of the genitals of the body done with intent to affront or alarm any person; or

C. A lewd fondling or caressing of the body of any other person of the same or opposite sex.

(Neb. Rev. Stat. §28-806)

### **SECTION 3-112: WINDOW PEEPING**

It shall be unlawful for any person to go upon the premises of another and look or peep into any window, door or other opening in any building located thereon which is occupied as a place of abode.

**SECTION 3-113: CRIMINAL MISCHIEF**

It shall be unlawful for any person to damage property of another intentionally or recklessly, tamper with property of another intentionally or recklessly so as to endanger person or property or cause another to suffer pecuniary loss by deception or threat intentionally or maliciously, provided that the value of the property involved is under \$1,500.00. (Neb. Rev. Stat. §28-519) (Class 2 or 3)

**SECTION 3-114: THEFT**

It shall be unlawful for any person to steal any money, goods, or chattels of any kind whatever. Any person who shall steal property of any kind, whether the same be property having a value of less than \$500.00, shall be deemed to be guilty of a misdemeanor. (Neb. Rev. Stat. §28-509 through 28-518)

**SECTION 3-115: THREATS; ASSAULT IN THE THIRD DEGREE**

It shall be unlawful for any person to intentionally, knowingly, or recklessly cause bodily injury to another person or threaten another in a menacing manner. It shall further be unlawful for any person to commit the above act in a fight or scuffle entered into by mutual consent. (Neb. Rev. Stat. §28-310)

**SECTION 3-116: DISORDERLY CONDUCT**

Any person who shall knowingly start a fight, fight, commit assault or battery, make unnecessary noise, or otherwise conduct himself in such a way as to breach the peace shall be deemed to be guilty of an offense. (Neb. Rev. Stat. §17-556)

**SECTION 3-117: DISTURBING AN ASSEMBLY**

It shall be unlawful for any person or persons to disturb, interrupt, or interfere with any lawful assembly of people, whether religious or otherwise, by loud and unnecessary noise, threatening behavior, or indecent and shocking behavior. (Neb. Rev. Stat. §17-556)

**SECTION 3-118: DISTURBING THE PEACE**

It shall be unlawful for any person to intentionally disturb the peace and quiet of any person, family or neighborhood. (Neb. Rev. Stat. §17-556, 28-1322) (Class 3)

**SECTION 3-119: MISREPRESENTATION BY MINOR**

It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-102, to obtain or attempt to obtain alcoholic liquor by misrepresentation of age or by any other method in any tavern or other place where alcoholic liquor is sold. (Neb. Rev. Stat. §53-180.01, 53-180.05)

**SECTION 3-120: MINOR IN POSSESSION**

It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-102, to transport, knowingly possess or have under his or her control in any motor vehicle, beer or other alcoholic liquor on any public street, alley, roadway or property owned by the state or any subdivision thereof or any other place within the village limits. (Neb. Rev. Stat. §53-180.02, 53-180.05)

**SECTION 3-121: LITTERING**

A. Any person who deposits, throws, discards, scatters, or otherwise disposes of any litter, refuse, waste matter or other thing on any public or private property or in any waters commits the offense of littering unless (1) such property is an area designated by law for the disposal of such material and such person is authorized by the proper public authority to so use such property; or (2) the litter is placed in a receptacle or container installed on such property for such purpose.

B. Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle or watercraft in violation of this section, the operator of such motor vehicle or water craft commits the offense of littering.

C. "Litter" as used in this section means all rubbish, refuse, waste material, garbage, trash, debris or other foreign substances, solid or liquid, of every form, size, kind and description, but does not include the wastes or primary processes of farming or manufacturing.

(Neb. Rev. Stat. §17-123.01, 28-523)

**SECTION 3-122: POSTING NOTICES**

No person in the city shall fasten any poster or other advertising device in any way upon public or private property in the city unless legally authorized to do so.

**SECTION 3-123: POSTED ADVERTISEMENTS**

It shall be unlawful for any person to wrongfully and maliciously tear, deface, remove, or cover up the posted advertisement or bill of any person, firm, or corporation when said bill or advertisement is rightfully and lawfully posted and the same remains of value.

**SECTION 3-124: APPLIANCES IN YARD**

It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other dangerous appliance to be in the open and accessible to children, whether on private or public property, unless he or she shall first remove all doors and make the same reasonably safe. (Neb. Rev. Stat. §18-1720) (Class 3)

**SECTION 3-125: OBSTRUCTING WATER FLOW**

It shall be unlawful for any person to stop or obstruct the passage of water in a street gutter, culvert, water pipe or hydrant.

**SECTION 3-126: PROHIBITED FENCES**

It shall be unlawful for any person to erect, or cause to be erected, and maintain any barbed wire or electric fence within the corporate limits, where such fence abuts a public sidewalk, street or alley. (Neb. Rev. Stat. §18-1720, 28-1321, 39-705) (Class 3)

**SECTION 3-127: INJURY TO TREES**

It shall be unlawful for any person to purposely or carelessly and without lawful authority to cut down, carry away, injure, break down, or destroy any trees planted or growing in the corporate limits or their fruit. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by it, shall make an application to the Village Board, and the written permit of the board in accordance with its decision to allow such an action shall constitute the only lawful authority on the part of the company to do so. (Neb. Rev. Stat. §17-555, 18-806, 28-519) (Class 2 or 3)

**SECTION 3-128: DISEASED OR DYING TREES**

A. It is hereby declared a nuisance for a property owner to permit, allow or maintain any dead or diseased trees within the right of way of streets or on private property within the corporate limits of the village. For the purpose of carrying out the provisions of this section, any village official shall have the authority to enter upon private property to inspect the trees thereon.

B. Notice to abate and remove such nuisances and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. Within 30 days after the receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the village may have such work done and may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied or assessed.

C. In the event the property owner is a nonresident of the county in which the property lies, the village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the nonresident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §18-1720, 28-1321) (Class 3)



**SECTION 3-129: PARKS; INJURY TO PROPERTY; LITTERING**

A. It shall be unlawful for any person to maliciously or willfully cut down, injure, or destroy any tree, plant, or shrub; to injure or destroy any sodded or planted area; or injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the village parks and recreational areas.

B. No person shall commit any waste on or litter the village parks or other public grounds.

(Neb. Rev. Stat. §17-563, 28-523)

## Article 2 – Dogs

### SECTION 3-201: DEFINITIONS

The following definitions shall apply to Article 2, Dogs, and Article 3, Animals Generally:

“Animal control authority” shall mean an entity authorized to enforce the animal control laws of the village.

“Animal control officer” shall mean any individual employed, appointed or authorized by an animal control authority for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensing of animals, control of animals or seizure and impoundment of animals and shall include any state or local law enforcement or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

“Chief animal control officer” shall mean the individual designated by the director to supervise animal control officers and other animal control employees and to have responsibility and authority for enforcing all provisions of this chapter.

“Director” and “health director” shall mean the director of the Lincoln-Lancaster County Department of Health or his or her duly authorized representative, unless and except as to such duties as are specifically entrusted to a duly appointed and acting manager of an animal shelter as provided for in this chapter.

“Dog” shall mean an animal of the Canine or Canidae family, regardless of sex.

“Owner” shall mean any person, firm, corporation, organization, political subdivision or department possessing, harboring, keeping or having control or custody of a dog; and specifically in reference to a collarless dog, every person who shall harbor such a dog about his or her premises for the space of ten days shall be held to be the owner. (Neb. Rev. Stat. §54-606, 71-4401)

### SECTION 3-202: RABIES VACCINATION

Every dog shall be vaccinated against rabies pursuant to Nebraska law. Unvaccinated dogs acquired or moved into the village must be vaccinated within 30 days after purchase unless under the age for initial vaccination. The provisions of this ordinance with respect to vaccination shall not apply to any dogs owned by a person temporarily residing within this village for fewer than 30 days, any dog brought into this village for show purposes, or any dog brought into this village for hunting purposes for a period of fewer than 30 days; such dogs shall be kept under the strict supervision of the owner. (Neb. Rev. Stat. §71-4402)

**SECTION 3-203: COLLAR AND NAME TAG REQUIRED**

It shall be the duty of every owner of any dog to securely place upon the neck of such dog a good and sufficient collar with a metallic plate attached thereon which shall be plainly inscribed with the name of such owner. (Neb. Rev. Stat. §54-605)

**SECTION 3-204: RUNNING AT LARGE**

It shall be unlawful for the owner of any dog to allow such dog to run at large at any time within the corporate limits of the village. It shall be the duty of the animal control authority to cause any dog found to be running at large within the village to be taken up and impounded. "Running at large" shall mean a dog was found off the premises of the owner and not under control of the owner or a responsible person by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint. (Neb. Rev. Stat. §17-526, 54-607)

**SECTION 3-205: DAMAGE; LIABILITY OF OWNER**

It shall be unlawful for any person to allow a dog owned, kept, or harbored by him or her or under his or her charge or control to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such dog, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained. (Neb. Rev. Stat. §18-1720, 54-601, 54-602)

**SECTION 3-206: BARKING AND OFFENSIVE DOGS**

It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any neighborhood or person or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the village. Upon the written complaint of two or more affected persons from different households, filed within any 30-day period with the village clerk, that any dog owned by the person named in the complaint is an annoyance or disturbance or otherwise violates the provisions of this section, the animal control officer shall investigate the complaint and, if in his or her opinion the situation warrants, shall notify the owner to silence and restrain such dog. The provisions of this section shall not be construed to apply to licensed veterinarians. (Neb. Rev. Stat. §17-526)

**SECTION 3-207: FEMALE IN SEASON**

It is hereby declared unlawful for the owner, keeper, or harbinger of a female dog to permit her to run at large within the village while in season. Any such female dog found running at large in violation of this section shall be declared to be a public nuisance and as such may be impounded or killed according to the provisions herein. (Neb. Rev. Stat. §17-526)

**SECTION 3-208: FIGHTING DOGS**

It shall be unlawful for any person, by agreement or otherwise, to set dogs to fighting or by any gesture or word to encourage the same to fight. (Neb. Rev. Stat. §17-526)

**SECTION 3-209: RABIES PROCLAMATION**

It shall be the duty of the Village Board, whenever in its opinion the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog to muzzle the same or to confine it for a period of not less than 30 days or more than 90 days from the date of such proclamation or until such danger is past. The dog may be harbored by any good and sufficient means in a house, garage, or yard on the premises wherein the owner may reside. Upon issuance of the proclamation, it shall be the duty of all persons owning, keeping, or harboring any dog to confine the same as herein provided. (Neb. Rev. Stat. §17-526)

**SECTION 3-210: RABIES SUSPECTED; IMPOUNDMENT**

Any dog suspected of being afflicted with rabies or any dog not vaccinated in accordance with the provisions of this article which has bitten any person and caused an abrasion of the skin shall be seized and impounded under the supervision of the Board of Health for a period of no fewer than ten days. If, upon examination by a veterinarian, the dog has no clinical signs of rabies at the end of such impoundment, it may be released to the owner or, in the case of an unlicensed dog, it shall be disposed of in accordance with the provisions herein. If the owner of the said dog has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least ten days, at which time the dog shall be examined by a licensed veterinarian. If no signs of rabies are observed, the dog may be released from confinement. (Neb. Rev. Stat. §71-4406)

**SECTION 3-211: CONTRACT FOR ANIMAL CONTROL**

The village shall have the authority to enter into a contract with any animal control agency or any like institution for the purpose of carrying out the provisions of an animal control program. The manager of the animal control agency shall receive all orders from the Village Board and shall make all necessary reports requested by it, operating the program in conformance with procedures established by the health director.

**SECTION 3-212: VICIOUS ANIMALS; UNLAWFUL**

A. *Declaration; Criteria.* It shall be unlawful for any person to own, keep, or harbor a vicious animal within the village; provided, this section shall not apply to animals under the control of a law enforcement or military agency. For the purpose of this section, an animal may be declared vicious by the director if the following facts or



criteria are met:

1. That said animal, while running at large, has bitten a person or persons and the bite and attack was unprovoked, or that said animal exhibits vicious propensities in present or past conduct, including such that said animal (a) has bitten a person or persons in a 12-month consecutive period three times; or (b) did bite or attack once causing wounds or injuries or inflicted wounds or injuries creating a potential danger to the health and life of the victim; or (c) could not be controlled or restrained by the owner at the time of bite or attack to prevent the occurrence.
2. That the destruction of said animal is necessary to preserve public health, safety, and welfare of the community.

*B. Notification.* Whenever an animal is declared vicious, the director shall notify the owner of said animal that after 10 days from the date of receipt of such notification the animal shall be humanely destroyed by a veterinarian of owner's choice or the animal shelter at the owner's expense, and certify the action taken. Said notice shall be served either in person or by mailing such notice by certified or registered mail.

*C. Appeal.* Any decision of the director under the provisions of these sections may be appealed to the City-County Health Board, which shall hear and render a decision in this matter. Any appeal by said owner to the City-County Health Board must be filed within 10 days after receipt of notification from the director that said animal will be destroyed. The disposition of any animal shall be stayed during the pendency of such appeal. The animal shall be kept in the custody of the director during the appeal process. The decision of the City-County Health Board shall be final and binding upon the Village and upon the appellant, and its decision may be appealed as provided by law. The City-County Health Board shall review the information provided by both the director and the owner of said animal and render a judgment to the effect that the animal is not vicious or that the animal is vicious and should be destroyed.

*D. Destruction of Animal.* If the owner shall have failed or refused to destroy said vicious animal, the director shall request the chairman to declare that in order to preserve the public health, safety, and welfare, the said vicious animal shall be destroyed. After such declaration, the director shall cause to be issued a written notice to destroy said vicious animal within 24 hours. Said notice shall be served by personal service upon the owner or his or her authorized agent. If such owner shall have failed or refused to remove said animal from the village or to destroy said vicious animal at the end of the expiration of 10 days 24 hours from delivery of notice, the director shall have said animal impounded and destroyed.

*E. Payment of Expenses.* The owner of any animal which is impounded and destroyed under this section shall be held responsible for payment of any expenses incurred by the director for impoundment and destruction, and failure to pay such fee to the director within 15 days after destruction of such animal shall constitute a viola-

tion of this chapter.

### **SECTION 3-213: IMPOUNDMENT**

A. It shall be the duty of the county sheriff or his designee to capture, secure and remove in a humane manner to the village animal shelter any dog violating any of the provisions of this article. The director shall notify the owner of any dog that has been impounded, regardless of the reason for impounding, if the owner's name and address can be obtained upon reasonable investigation within two hours after such dog is impounded under any of the provisions of this ordinance. The dogs so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded dog shall be kept and maintained at the pound for a period of not fewer than three days for licensed dogs and five days for unlicensed dogs after public notice has been given unless reclaimed earlier by the owner.

B. Notice of impoundment of all animals, including any significant marks or identification, shall be posted at the office of the village clerk within 24 hours after impoundment as public notification of such impoundment. Any dog may be reclaimed by its owner during the period of impoundment by payment of all fees assessed by the Human Society before his/her dog shall be released.

(Neb. Rev. Stat. §17-548, 71-4408)

### **SECTION 3-214: INTERFERENCE WITH ANIMAL CONTROL**

It shall be unlawful for any person to hinder, delay or interfere with any animal control officer who is performing any duty enjoined upon him or her by the provisions of this article or to break open or in any manner directly or indirectly aid, counsel, or advise breaking into the animal shelter or any vehicle used for the collecting or conveying of dogs to the shelter. (Neb. Rev. Stat. §28-906)

### **SECTION 3-215: VIOLATION; CITATION**

A. The enforcement of the provisions of this chapter shall be under the direction of the health director. Whenever the county sheriff, a deputy or an animal control officer shall observe any violation of this chapter, it shall be his or her duty to issue an animal control citation to the appropriate person.

B. At the time of the commission of the alleged violation, the accused may be served with a printed notice requiring him or her to make such appearance on or before the date specified thereon and advising whether execution of a waiver of appearance and plea of guilty has been made available by the court for such violation. Said notice shall further apprise the accused that upon direct refusal or failure to so appear, a warrant shall be issued for his or her arrest and that the accused must appear at said court during the hours fixed by the judges of the county court as shown on said notice.

## **Article 3 – Animals Generally**

### **SECTION 3-301: WILD ANIMALS**

No wild animals may be kept within the corporate limits except such animals kept for exhibition purposes by circuses and educational institutions.

### **SECTION 3-302: SPACE REQUIREMENT**

A. Any person who shall keep or maintain within the corporate limits any large animal such as a horse, mule, sheep, cow, goat, swine, or other livestock shall provide at least one acre of land for every five animals.

B. Any person who shall keep or maintain within the corporate limits any type of fowl shall provide at least one-half acre of land for every 15 birds; provided, the fowl shall weigh between 3 and 5 pounds each, and roosters and all other types of fowl shall be prohibited.

C. An annual permit shall be required for the keeping of animals within the corporate limits. Application shall be made to the village clerk by October 1 on a form provided by the Village, which shall be accompanied by a one-time fee in the amount of \$20.00.

(Neb. Rev. Stat. §17-547) (Am. by Ord. No. 3-302, 4/14/14)

### **SECTION 3-303: LIVESTOCK; RUNNING AT LARGE**

It shall be unlawful for the owner, keeper, or harbinger of any animal or any person having the charge, custody, or control thereof to permit a horse, mule, cow, sheep, goat, swine, or other animal to run at large on any of the public ways and property or upon the property of another or to be tethered or staked out in such a manner as to allow such animal to reach or pass into any public way. (Neb. Rev. Stat. §17-547)

### **SECTION 3-304: FOWLS; RUNNING AT LARGE**

It shall be unlawful for any person to allow poultry, chickens, turkeys, geese, or any other fowls to run at large within the corporate limits, except in enclosed places on private property. (Neb. Rev. Stat. §17-547)

### **SECTION 3-305: ENCLOSURES**

All pens, cages, sheds, yards, or any other areas or enclosures for the confinement of animals and fowls not specifically barred within the corporate limits shall be kept in a clean and orderly manner so as not to become a menace or nuisance to the neighborhood in which the said enclosure is located.

**SECTION 3-306: RABIES SUSPECTED; CAPTURE IMPOSSIBLE**

The animal control authority, as defined in Article 2 herein, shall have the authority to kill any animal showing vicious tendencies or characteristics of rabies which make capture impossible because of the danger involved. (Neb. Rev. Stat. §71-4406)



## **Article 4 – Nuisances**

### **SECTION 3-401: WEEDS, GRASSES AND LITTER; DEFINITIONS**

A. The terms "weeds, grasses or worthless vegetation" shall mean any weed or grass growth of more than 12 inches in height, or 8 inches as described in Section 3-402. Weeds shall include, but not be limited to, bindweed, puncture vine, leafy spurge, Canada thistle, perennial peppergrass, Russian knapweed, Johnson grass, nodding or musk thistle, quack grass, perennial sow thistle, horse nettle, bull thistle, buckthorn, hemp plant and ragweed.

B. The term "litter" shall include, but not be limited to:

1. Trash, rubbish, refuse, garbage, paper, rags and ashes;
2. Wood, plaster, cement, brick or stone building rubble;
3. Offal and dead animals or any foul, decaying, or rotting substance, including stagnant water.
4. Any machine, vehicle, or parts of a machine or vehicle which have lost their identity, character, utility or serviceability as such through deterioration, dismantling or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded or thrown away or left as waste, wreckage or junk;
5. Any motor vehicle without a current license and not housed in a storage or other building;
6. Any wood or tree limbs not cut and stacked in neat rows on an area not exceeding 10 feet by 16 feet.
7. Debris from burned or damaged buildings, whether created by consensual burning or demolition or whether occurring due to fire or age.

### **SECTION 3-402: WEEDS OR GRASSES; PUBLIC NUISANCE**

It is hereby declared to be a public nuisance to permit grasses or weeds to grow in excess of 12 inches on any property within the corporate limits of the village or maintain any growth of 8 inches or more in height of weeds, grasses or worthless vegetation on any lot or piece of ground during any calendar year if, within the same calendar year, the village has previously acted to remove weeds, grasses, or worthless vegetation exceeding 12 inches in height on the same lot or piece of ground and had to seek recovery of the costs and expenses of such work from the owner.

**SECTION 3-403: LITTER; PUBLIC NUISANCE**

It is hereby declared to be a public nuisance to permit the accumulation of litter on any property within the corporate limits.

**SECTION 3-404: WEEDS, GRASSES AND LITTER; NOTICE OF NONCOMPLIANCE**

A. Whenever the Village Board determines that any grasses or weeds in excess of 12 inches, or 8 inches as described in Section 3-402, are growing on property within the village or litter is found on any property, notice to abate and remove such nuisance shall be given by the village clerk as follows: (1) to each owner or owner's duly authorized agent by certified mail, which shall be conspicuously marked as to its importance; and (2) to the occupant, if any, by personal service by a village police officer or county sheriff or deputy.

B. Within five days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the village to appeal the decision to abate or remove the nuisance by filing a written appeal with the office of the village clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by the village chairman as hearing officer, who shall render a decision on the appeal within five business days after the conclusion of the hearing. If the appeal fails, the village may have such work done.

C. Within five days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the village or fails to comply with the order to abate and remove the nuisance, the village may have such work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the village may either (1) levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed or (2) recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys. In this event, however, the village shall comply with the notice and hearing requirements set forth in Sections 3-410, 3-411 and 3-412 set forth hereafter.

(Neb. Rev. Stat. §17-563)

**SECTION 3-405: DANGEROUS BUILDINGS; DEFINITIONS**

Any buildings or structures which have any or all of the following defects are hereby declared to be unsafe or dangerous buildings or structures and a public nuisance:

A. Those having walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base;

B. Those showing 33% or more of damage or deterioration of the supporting

member or members, exclusive of the foundation;

C. Those with improperly distributed loads upon floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used;

D. Those damaged by fire, wind, or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants of the people of the village;

E. Those which have become dilapidated, decayed, unsafe, unsanitary, or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to work injury to the health, morals, safety, or general welfare of those living therein;

F. Those having light, air and sanitation facilities which are inadequate to protect the health, safety, or general welfare of human beings who live or may live therein;

G. Those having inadequate facilities for egress in the case of fire or panic, or those having insufficient stairways, elevators, fire escapes, or other means of communication;

H. Those having parts thereof which are so attached that they may fall and injure persons or property;

I. Those that are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the people of the village because of their condition;

J. Those having been inspected by a specially appointed building inspector or a professional engineer appointed by the village which are, after inspection, deemed to be structurally unsafe or unsound as found by the inspection of such building inspector or professional engineer;

K. Those existing in violation of any provision of this article, any provision of the Fire Prevention Code, any provision of the county health rules and regulations or other applicable provisions of the ordinances of the village.

### **SECTION 3-406: DANGEROUS BUILDINGS; STANDARDS**

The following standards shall be followed in substance in determining whether the structure or building should be repaired, vacated, or demolished:

A. If the unsafe or dangerous building or structure can reasonably be repaired so that it will no longer exist in violation of any of the terms or provisions of this article, it shall be ordered to be repaired.

B. If the unsafe or dangerous building is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.

C. In any case where an unsafe or dangerous building or structure cannot be repaired so that it will no longer exist in violation of the terms or provisions of this article, it shall be demolished. In all cases where the unsafe or dangerous building is a fire hazard existing or erected in violation of the applicable fire codes and regulations, or any other provision of an ordinance of this village or statute of the state, it shall be demolished.

### **SECTION 3-407: DANGEROUS BUILDINGS; PUBLIC NUISANCE**

All unsafe or dangerous buildings or structures within the terms of this article are hereby declared to be nuisances and shall be repaired, vacated, or demolished as provided above.

### **SECTION 3-408: DANGEROUS BUILDINGS; BUILDING INSPECTOR**

The Village Board may appoint a special building inspector or professional engineer who shall, at the direction of the board:

A. Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in a dangerous or unsafe manner;

B. Inspect any building or structure within the jurisdictional area of the village for the purpose of determining whether any conditions exist which render such place a dangerous or unsafe building or structure within the terms of this article;

C. Report to the Village Board the results of the inspection;

D. Appear at all hearings and testify as to the condition of the unsafe or dangerous building or structure.

### **SECTION 3-409: DANGEROUS BUILDINGS; NUISANCE DECLARED; PROCEDURE**

If the special building inspector or professional engineer designated by the Village Board finds that a building or structure is unsafe or dangerous and a nuisance, the board shall:

A. Notify the owner, occupant, lessee, mortgagee, agent or other persons having an interest in the building or structure that it has been found to be an unsafe or dangerous building. The notice will indicate whether the owner must vacate, repair or



demolish the building or structure and shall be delivered to the persons as heretofore described by personal service or certified mail. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the village or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated or removed. In any case, notice shall be posted upon such premises as a procedural step herein, as described in subsection (C) below.

B. Set forth in the notice a description of the building or structure deemed unsafe or dangerous, accompanied by a statement of the particulars which make the building or structure unsafe or dangerous and an order requiring the same to be put in such condition as to comply with the terms of this article within such length of time, not exceeding 30 days, as is reasonable;

C. Direct the special building inspector to place a sign on the building or structure found to be unsafe or dangerous on its exterior near the main entrance which shall set forth that the building or structure is unsafe or dangerous for occupancy and use.

### **SECTION 3-410: DANGEROUS BUILDINGS; DISPUTES**

A. In the event that the owner, occupant, lessee, mortgagee, agent or other person having an interest in the building or structure determined dangerous, disagrees with or disputes the information contained in the notice, such person shall notify the village clerk with a written statement that sets forth the reasons for the disagreement or dispute and the relief requested. This written request shall be made within 14 days of mailing of the notice. If written notice is received by the village clerk within 14 days, a hearing shall be held before the Village Board at its next regularly scheduled monthly meeting. The clerk shall notify the person requesting the hearing, in writing, of the time, place, and date of the regular monthly meeting and shall place the name of the person on the agenda of such meeting.

B. The hearing before the Village Board shall be informal and not governed by the Nebraska Rules of Evidence. Such hearing shall be quasi-judicial in nature and its decision shall be based on the evidence presented at the hearing. The person requesting the hearing may be represented by legal counsel or other representative, may present witnesses and offer evidence, and may examine and copy, at his or her own expense, and not less than three business days before the hearing, the records of the village regarding the inspection and notice. The Village Board need not make a written finding of fact and may make its pronouncement orally at the hearing. The decision of the board shall be final unless appealed. Failure of the person to attend the hearing shall relieve the board of any further procedures before action is taken as set forth in a notice.

**SECTION 3-411: DANGEROUS BUILDINGS; APPEAL**

Any person aggrieved by the decision of the Village Board may appeal the decision to the District Court. This appeal shall and must be taken within 30 days of the pronouncement of the board's decision.

**SECTION 3-412: DANGEROUS BUILDINGS; FAILURE TO COMPLY**

In case any owner, occupant, lessee, mortgagee, agent or other person having an interest in the building or structure shall fail, neglect, or refuse to comply with the notice by or on behalf of the village to repair, rehabilitate or demolish and remove a building or structure which is unsafe or dangerous and a public nuisance, or shall fail to comply with the notice to abate grasses, weeds or litter, the village may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the Village Board, which is authorized to levy the cost as a special assessment against the property. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments under Nebraska statutes. In addition the village may bring a civil action against the offending party to recover the cost of the work.

**SECTION 3-413: DANGEROUS BUILDINGS; IMMEDIATE HAZARD**

In the event the building constitutes an immediate hazard to the life or safety of any persons and must be demolished to protect their health or safety, a specially appointed building inspector or a professional engineer designated by the Village Board shall report such facts to the board, which shall follow the procedures set forth in state statutes. The village, by and through the Village Board, may immediately contract for the immediate demolition of the unsafe or dangerous building without requiring bids. The cost of such emergency vacation and demolition of unsafe or dangerous buildings or structures shall be levied, equalized, and assessed, as are other special assessments.

**SECTION 3-414: JURISDICTION**

The chairman and village marshal of the Village are directed to enforce this village code against all nuisances. The jurisdiction of the chairman, village marshal, and court shall extend to, and the territorial application of this chapter shall include, all territory adjacent to the limits of the Village within one mile thereof and all territory within the corporate limits. (Neb. Rev. Stat. §18-1720)

**SECTION 3-415: ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL**

In cases of appeal from an action of the Village Board condemning real property as a nuisance or as dangerous under the police powers of the Village, the owners of the adjoining property may intervene in the action at any time before trial. (Neb. Rev. Stat. §19-710)

## **Article 5 – Sexual Predators**

### **SECTION 3-501: DEFINITIONS**

For purposes of this ordinance:

“Child care facility” means a facility licensed pursuant to the Child Care Licensing Act;

“Reside” means to sleep, live, or dwell at a place, which may include more than one location and may be mobile or transitory;

“Residence” means a place where an individual sleeps, lives, or dwells, which may include more than one location, and may be mobile or transitory;

“School” means a public, private, denominational, or parochial school which meets the requirements for state accreditation or approval;

“Sex offender” means an individual who has been convicted of a crime listed in Nebr. Rev. Stat. §29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act; and

“Sexual predator” means an individual required to register under the Sex Offender Registration Act, who has committed an aggravated offense as defined in Neb. Rev. Stat. §29-4001.01 and who has victimized a person 18 years of age or younger.  
(Neb. Rev. Stat. §29-4016)

### **SECTION 3-502: RESIDENCY RESTRICTIONS**

It is unlawful for any sexual predator to reside within 500 feet from a school or child care facility. For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or child care facility. (Neb. Rev. Stat. §29-4017)

### **SECTION 3-503: EXCEPTIONS**

This ordinance shall not apply to a sexual predator who (A) resides within a prison or correctional or treatment facility operated by the state or a political subdivision; (B) established a residence before July 1, 2006, and has not moved from that residence; or (C) established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location. (Neb. Rev. Stat. §29-4017)

## **Article 6 – Penal Provisions**

### **SECTION 3-601: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

### **SECTION 3-602: ABATEMENT OF NUISANCE**

Whenever a nuisance exists as defined in this code, the village may proceed by a suit in equity to enjoin and abate the same in the manner provided by law. Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (Neb. Rev. Stat. §18-1720, 18-1722)



## **CHAPTER 4 – VEHICLES AND TRAFFIC**

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## **CHAPTER 4 – VEHICLES AND TRAFFIC**

### **Article 1 – Traffic Regulations**

#### **SECTION 4-101: DEFINITIONS**

The words and phrases used in this chapter pertaining to motor vehicles and traffic regulations shall be construed as defined in Neb. Rev. Stat. Chapter 60, as now existing or hereafter amended. If not defined in the designated statutes, the word or phrase shall have its common meaning. (Neb. Rev. Stat. §60-606 through 60-676)

#### **SECTION 4-102: RULES OF THE ROAD; INCORPORATED BY REFERENCE**

The Nebraska Rules of the Road, together with all subsequent amendments thereto, as adopted by the State of Nebraska relating to traffic regulations, are incorporated by reference into this section and made a part of this article as though spread at large herein, except those provisions in conflict with this article when the Village Board has the authority to alter such regulations. (Neb. Rev. Stat. §18-132)

#### **SECTION 4-103: EMERGENCY REGULATIONS**

The chairman of the Village Board is hereby empowered to make and enforce temporary traffic regulations to cover emergencies.

#### **SECTION 4-104: POLICE; ENFORCEMENT**

The chief of police is hereby authorized, empowered, and ordered to exercise all powers and duties with relation to the management of street traffic and to direct, control, stop, restrict, regulate and, when necessary, temporarily divert or exclude in the interest of public safety, health, and convenience the movement of pedestrian, animal, and vehicular traffic of every kind in streets, parks, and on bridges. The driver of any vehicle shall stop upon the signal of any police officer. (Neb. Rev. Stat. §60-683)

#### **SECTION 4-105: POLICE; REFUSAL TO OBEY**

It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal, or direction of a police officer. (Neb. Rev. Stat. §60-680)

#### **SECTION 4-106: POLICE; TRAFFIC OFFICERS**

The Village Board or the village police may at any time detail officers, to be known as "traffic officers," at street intersections. All traffic officers shall be vested with the authority to regulate and control traffic at the intersections to which they are assigned. It shall be their duty to direct the movement of traffic and prevent congestion and accidents. It shall be unlawful for any person to violate any order or signal of any such traffic officer notwithstanding the directive of a stop sign or signal device which may

have been placed at any such intersection. (Neb. Rev. Stat. §60-680, 60-683)

#### **SECTION 4-107: REGULATION BY VILLAGE BOARD**

A. The Village Board may by resolution mark lanes for traffic on street pavements at such places as it may deem advisable, provide for one-way travel in any street or alley, designate any street or portion thereof as a snow route, and establish and maintain crosswalks

B. The Village Board may by resolution provide for the placing of stop signs or other signs, signals, standards, or mechanical devices in any street or alley under the village's jurisdiction for the purpose of regulating or prohibiting traffic thereon.

C. Such resolutions shall describe the portion of the street or alley wherein traffic is to be regulated or prohibited; the regulation or prohibition; the location where such sign, signal, standard or mechanical device shall be placed; and the hours when such regulation or prohibition shall be effective.

(Neb. Rev. Stat. §60-6,119 through 60-6,121, 60-680)

#### **SECTION 4-108: TRUCK ROUTES**

The Village Board may by resolution designate certain streets in the village that trucks shall travel upon and it shall be unlawful for persons operating such trucks to travel on other streets than those designated for trucks, unless to pick up or deliver goods, wares, or merchandise and in that event, the operator of such truck shall return to such truck routes as soon as possible in traveling through or about the village. The Village Board shall cause notices to be posted or shall erect signs indicating the streets so designated as truck routes. (Neb. Rev. Stat. §60-681)

#### **SECTION 4-109: SNOW ROUTES; DESIGNATION**

The Village Board may by resolution designate any street or portion thereof as a snow route and shall provide for appropriate signs or markings when such street has been so designated. (Neb. Rev. Stat. §60-680)

#### **SECTION 4-110: SCHOOL ZONES**

It shall be unlawful for the driver of any vehicle, when passing premises on which school buildings are located and which are used for school purposes, during school recess or while children are going to or leaving school during the opening or closing hours, to drive such vehicle in excess of 15 miles per hour past such premises. Such driver shall stop at all stop signs located at or near such school premises and it shall be unlawful for such driver to make a "U" turn at any intersection where such stop signs are located at or near such school premises. (Neb. Rev. Stat. §60-6,190)



**SECTION 4-111: SIGNS, TRAFFIC CONTROL AND SURVEILLANCE DEVICES;  
DEFACING OR INTERFERING WITH**

It shall be unlawful for any person to willfully or maliciously deface, injure, remove, obstruct, knock down or interfere with any official traffic sign or signal, traffic control device, or traffic control surveillance device. (Neb. Rev. Stat. §60-6,129, 60-6,130)

**SECTION 4-112: SIGNS; UNAUTHORIZED DISPLAY**

It shall be unlawful for any person to maintain or display upon or in view of any street any unofficial sign, signal, or device which purports to be, is an imitation of, or resembles an official traffic sign or signal which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official sign or signal. Every such prohibited sign, signal, or device is hereby declared to be a public nuisance and any police officer is hereby empowered to remove the same or cause it to be removed without notice. (Neb. Rev. Stat. §60-6,127)

**SECTION 4-113: STOP SIGNS; GENERALLY**

Every person operating any vehicle shall, upon approaching any stop sign erected in accordance with the resolution prescribed in Section 4-107, cause such vehicle to come to a complete stop before entering or crossing any street, highway, or railroad crossing. The vehicle operator shall stop at a marked stop line or, if there is no stop line, before entering the crosswalk but if neither is indicated, then as near the right of way line of the intersecting roadway as possible. (Neb. Rev. Stat. §60-6,119 through 60-6,121, 60-680)

**SECTION 4-114: CROSSING SIDEWALKS**

A. The driver of a vehicle emerging from an alley, driveway, private road, or building shall stop such vehicle immediately before driving onto a sidewalk and shall yield the right-of-way to any pedestrian approaching on any sidewalk. Before entering the highway, the driver shall yield the right-of-way to all vehicles approaching on such highway.

B. The driver of a vehicle entering an alley, building, private road, or driveway shall yield the right-of-way to any pedestrian approaching on any sidewalk.  
(Neb. Rev. Stat. §60-6,149)

**SECTION 4-115: UNNECESSARY STOPPING**

It shall be unlawful for any person to stop any vehicle on any public street or in an alley other than in permitted parking areas, except when such a stop is necessary for emergency situations, to comply with traffic control devices and regulations or to yield the right of way to pedestrians or to other vehicles. (Neb. Rev. Stat. §60-6,164, 60-6,166)

**SECTION 4-116: SPEED LIMITS**

A. No person shall operate a motor vehicle on any street, alley, or other place at a rate of speed greater than 25 miles per hour within the residential district and 20 miles per hour within the business district, unless a different rate of speed is specifically permitted by ordinance. In no instance shall a person drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions. Where a different maximum speed is set by ordinance, appropriate signs shall be posted.

B. The following speed limits are hereby established:

1. Main Street: 25 m.p.h.

2. South 46<sup>th</sup> Street from Main Street to the village limits: 35 m.p.h.

(Neb. Rev. Stat. §60-6,186, 60-6,190) (Ord. No. 2012-05, 6/11/12)

**SECTION 4-117: SPEED; ELECTRONIC DETECTOR**

A. The speed of any motor vehicle within the village may be determined by the use of radio microwaves or other electronic device. The results of such determinations shall be accepted as prima facie evidence of the speed of such motor vehicle in any court or legal proceedings where the speed of the motor vehicle is at issue.

B. The driver of any such motor vehicle may be arrested without a warrant under the authority herein granted if the arresting officer is in uniform or displays his or her badge of authority; provided, such officer shall have observed the recording of the speed of such motor vehicle by the radio microwaves or other electronic device or had received a radio message from the officer who observed the speed of the motor vehicle recorded by the radio microwaves or other electronic device. In the event of an arrest based on such a message, such radio message must have been dispatched immediately after the speed of the motor vehicle was recorded and must include a description of the vehicle and the recorded speed.

(Neb. Rev. Stat. §60-6,192)

**SECTION 4-118: RACING**

No person shall drive any vehicle in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance or exhibition of speed or acceleration or for the purpose of making a speed record. No person shall in any manner participate in any such race, competition, contest, test, or exhibition. (Neb. Rev. Stat. §60-6,195)

**SECTION 4-119: CARELESS DRIVING**

Any person who drives any motor vehicle in the village carelessly or without due caution so as to endanger a person or property shall be guilty of careless driving. (Neb. Rev. Stat. §60-6,212, 60-4,182)

**SECTION 4-120: RECKLESS DRIVING**

Any person who drives a motor vehicle in such a manner as to indicate an indifferent or wanton disregard for the safety of persons or property shall be deemed to be guilty of reckless driving and as such shall be punished as provided by statute. (Neb. Rev. Stat. §60-6,213, 60-6,215, 60-4,182)

**SECTION 4-121: WILLFUL RECKLESS DRIVING**

Any person who drives a motor vehicle in such a manner as to indicate a willful disregard for the safety of persons or property shall be deemed to be guilty of willful reckless driving. (Neb. Rev. Stat. §60-6,214, 60-6,216, 60-4,182)

**SECTION 4-122: NEGLIGENT DRIVING**

Any person who drives any vehicle in such a manner as to indicate the absence of care, prudence and forethought as duty requires should be exercised under the circumstances or who drives any vehicle which is engaged in a race upon a street is guilty of negligent driving. (Neb. Rev. Stat. §60-4,182)

**SECTION 4-123: RIGHT OF WAY GENERALLY**

A. When two vehicles approach or enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right when the paths of such vehicles intersect and there is danger of a collision, unless otherwise directed by a village police officer stationed at the intersection.

B. The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right of way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

C. The driver of a vehicle on any street shall yield the right of way to a pedestrian crossing such street within any clearly marked crosswalk or at any regular pedestrian crossing at the end of a block where the movement of traffic is being regulated by traffic officers or traffic direction devices. Every pedestrian crossing a street at any point other than a pedestrian crossing, crosswalk, or intersection shall yield the right of way to vehicles upon the street.

D. The driver of a vehicle emerging from or entering an alley, building, private road, or driveway shall yield the right of way to any pedestrian approaching on any sidewalk and all vehicles approaching on such streets.  
(Neb. Rev. Stat. §60-6,146 through 60-6,154)

**SECTION 4-124: RIGHT OF WAY; EMERGENCY VEHICLES**

A. Upon the immediate approach of an authorized emergency vehicle which makes use of proper audible or visual signals:

1. The driver of any other vehicle shall yield the right of way and shall immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the roadway or to either edge or curb of a one-way roadway, clear of any intersection, and shall stop and remain in such position until such emergency vehicle passes unless otherwise directed by any peace officer; and
2. Any pedestrian using such roadway shall yield the right of way until such emergency vehicle passes unless otherwise directed by any peace officer.

B. This section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.  
(Neb. Rev. Stat. §60-6,151)

**SECTION 4-125: TURNING; GENERALLY; SIGNAL**

Vehicles turning to the right into an intersecting street shall approach such intersection in the lane of traffic nearest to the right-hand side of the highway and must turn the corner as near the right-hand curb as possible to keep between the curb to the right and the center of the intersection of the two streets. The driver of a vehicle intending to turn to the left shall approach such center line of the highway and in turning shall pass as near as possible to the center of the intersection, passing as closely as practicable to the right thereof before turning such vehicle to the left. For the purposes of this section, the "center of the intersection" shall mean the meeting point of the medial lines of the highways intersecting one another. A signal of intention to turn right or left shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning. (Neb. Rev. Stat. §60-6,159, 60-6,161)

**SECTION 4-126: TURNING; "U" TURNS**

No vehicle shall be turned so as to proceed in the opposite direction at any intersection where an automatic signal is in operation or where a sign is posted indicating that "U" turns are prohibited. (Neb. Rev. Stat. §60-6,160)

**SECTION 4-127: BACKING**

It shall be unlawful for any person to back a motor vehicle on the village streets except to park in or to remove the vehicle from a permitted parking position, to move the vehicle from a driveway, or to back to the curb for unloading where such unloading is permitted; provided, a vehicle shall be backed only when such movement can be made in safety and in no case shall the distance of the backing exceed one and

one-half lengths of the vehicle. (Neb. Rev. Stat. §60-6,169)

#### **SECTION 4-128: DRIVING ABREAST**

Two or more vehicles shall not be driven abreast except when passing or when traversing a multi-lane or one-way street; provided, motorcycles may be driven no more than two abreast in a single lane. (Neb. Rev. Stat. §60-6,139)

#### **SECTION 4-129: FOLLOWING; FIRE APPARATUS**

The driver of any vehicle shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block when fire apparatus has stopped in answer to a fire alarm. (Neb. Rev. Stat. §60-6,183)

#### **SECTION 4-130: FOLLOWING; DISTANCE**

The operator of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic and condition of the street. (Neb. Rev. Stat. §60-6,140)

#### **SECTION 4-131: OVERLOADING**

No person shall drive a motor vehicle when it is so loaded as to obstruct the view of the driver to the front or sides of the vehicle or to interfere with the driver's control over such vehicle or when there are more than three persons in the front seat. No passenger in a vehicle shall ride in such a position as to interfere with the driver's control over such vehicle. (Neb. Rev. Stat. §60-6,179)

#### **SECTION 4-132: RIDING OUTSIDE VEHICLE**

No person shall permit any other person to ride on the running board, hood, top, or fenders of any motor vehicle nor shall any person ride on the running board, hood, top, or fenders of any motor vehicle. (Neb. Rev. Stat. §60-180)

#### **SECTION 4-133: CONVEYANCES; CLINGING TO MOTOR VEHICLES**

No person riding upon any bicycle, coaster, roller skates, sled, skis, or toy vehicle shall attach himself or the said conveyance to any vehicle upon a roadway, and it shall be unlawful for the driver of any vehicle to suffer or permit any person riding upon any bicycle, coaster, roller skates, sled, skis, or toy vehicle to cling or attach himself or his conveyance to such vehicle driven and operated by him. (Neb. Rev. Stat. §60-6,316)

#### **SECTION 4-134: MUFFLER**

Every motor vehicle operated within this village shall be provided with a muffler in



good working order to prevent excessive or unusual noise or smoke. It shall be unlawful to use a "muffler cut-out" on any motor vehicle upon any streets; provided, the provisions of this section shall not apply to authorized emergency vehicles. (Neb. Rev. Stat. §60-6,286)

#### **SECTION 4-135: DRIVING IN SIDEWALK SPACE**

No motor vehicle shall be driven or ridden within any sidewalk space, except a permanent or temporary driveway. (Neb. Rev. Stat. §60-6,178)

#### **SECTION 4-136: REMOVAL OF DEBRIS**

Any person who removes a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance deposited on the highway from such vehicle. (Neb. Rev. Stat. §39-311)

#### **SECTION 4-137: UNNECESSARY NOISE**

No person shall drive, use, operate, park or stop any motor vehicle in such a manner as to cause unnecessary noise.

#### **SECTION 4-138: LICENSE PLATES**

The license plates required on every motor vehicle by laws of the State of Nebraska or of any other state while such vehicle is operated within the corporate limits shall be kept clear and free from grease, dust, or other blurring matter so they will be plainly visible at all times. The said plates shall be attached in such manner as to be clearly readable at a distance of 100 feet and under no circumstances shall they be obstructed by any portion of the vehicle. (Neb. Rev. Stat. §60-324, 60-325)

#### **SECTION 4-139: ENGINE BRAKES**

It shall be unlawful for any person within the village limits to make or cause to be made loud or disturbing noises with any mechanical device operated by compressed air and used for purposes of assisted braking on any motor vehicle; provided, however, it shall be permitted to use engine brakes in an emergency situation. (Ord. No. 2012-04, 6/11/12)

#### **SECTION 4-140: LOADS; PROJECTING**

When any vehicle shall be loaded in such a manner that any portion of the load extends more than 4 feet beyond the rear of the bed or the body of such vehicle, a red flag of not less than 12 inches both in length and width shall be carried by day and a red light after sunset at the extreme rear end of such load. (Neb. Rev. Stat. §60-243)

**SECTION 4-141: LOADS; CONTENTS; REQUIREMENTS**

A. No vehicle shall be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping from the vehicle.

B. No person shall transport any sand, gravel, rock less than 2 inches in diameter, or refuse in any vehicle on any hard-surfaced state highway if such material protrudes above the sides of that part of the vehicle in which it is being transported unless such material is enclosed or completely covered with canvas or similar covering.

C. No person shall drive or move a motor vehicle, trailer, or semitrailer upon any highway unless the cargo or contents carried by the motor vehicle, trailer, or semitrailer are properly distributed and adequately secured to prevent the falling of cargo or contents from the vehicle. The tailgate, doors, tarpaulins, and any other equipment used in the operation of the motor vehicle, trailer, or semitrailer or in the distributing or securing of the cargo or contents carried by the motor vehicle, trailer, or semitrailer shall be secured to prevent cargo or contents falling from the vehicle. The means of securement to the motor vehicle, trailer, or semitrailer must be either tiedowns and tiedown assemblies of adequate strength or sides, sideboards, or stakes and a rear endgate, endboard, or stakes strong enough and high enough to assure that cargo or contents will not fall from the vehicle.

(Neb. Rev. Stat. §60-6,304)

## **Article 2 – Parking**

### **SECTION 4-201: GENERALLY**

No person shall park any vehicle or approach the curb with a vehicle except when headed in the direction of the traffic. Vehicles when parked shall stand parallel with and adjacent to the curb or edge of the roadway in such manner as to have both right wheels within 12 inches of the curb or edge of the roadway and so as to leave at least 4 feet between the vehicle so parked and any other parked vehicles, except where the Village Board designates that vehicles shall be parked at an angle so as to have the front right wheel at the curb or edge of the roadway. Where stalls are designated either on the curb or pavement, vehicles shall be parked within such stalls. (Neb. Rev. Stat. §60-6,167, 60-680)

### **SECTION 4-202: REGULATION BY VILLAGE BOARD**

A. The Village Board may by resolution set aside any street, alley, public way, or portion thereof where the parking of a particular kind or class of vehicle shall be prohibited or where the parking of any vehicle shall be prohibited. No vehicle prohibited from parking thereon shall stand or be parked adjacent to the curb of said street, alley, public way, or portion thereof longer than a period of time necessary to load and unload freight or passengers. (Neb. Rev. Stat. §60-680)

B. The Village Board may by resolution designate any street or portion thereof where vehicles shall be parked parallel with and adjacent to the curb or at an angle so as to have the right front wheel at the curb. (Neb. Rev. Stat. §60-6,167, 60-680)

C. The Village Board may by resolution entirely prohibit or fix a time limit for the parking and stopping of vehicles on any street, streets, or district designated by such resolution; and the parking or stopping of any vehicle in any such street, streets, or district, for a period of time longer than fixed in such resolution shall constitute a violation of this article. (Neb. Rev. Stat. §60-680)

### **SECTION 4-203: MAXIMUM TIME LIMIT**

The parking of a motor vehicle on a public street for over 24 consecutive hours is unlawful, except where a different maximum time limit is posted. (Neb. Rev. Stat. §60-680)

### **SECTION 4-204: CURBS PAINTED**

It shall be the duty of the street commissioner to cause the curb space to be painted and keep the same painted as provided in this article. No person, firm, or corporation shall paint the curb of any street or in any manner set aside or attempt to prevent the parking of vehicles in any street or part thereof except at such places where the parking of vehicles is prohibited by the provisions of this article. The marking or designating of portions of streets or alleys where the parking of vehicles is prohibited or lim-

ited shall be done only by the village through its proper officers at the direction of the Village Board. (Neb. Rev. Stat. §60-680)

#### **SECTION 4-205: OBSTRUCTING TRAFFIC**

Except in case of an accident or emergency, no person shall stop any vehicle in any location where such stopping will obstruct any street, intersection, or entrance to an alley or public or private drive. (Neb. Rev. Stat. §60-680)

#### **SECTION 4-206: STREET INTERSECTIONS**

Except in compliance with traffic control devices, no vehicle shall be parked or left standing for any purpose, except momentarily to load or discharge passengers, within 25 feet of the intersection or curb lines or if none, then within 15 feet of the intersection of property lines. (Neb. Rev. Stat. §60-6,166)

#### **SECTION 4-207: VEHICLE PARKED IN SIDEWALK SPACE**

It shall be unlawful for any person to park, place, or cause to be parked or placed any motor vehicle or other vehicle upon any part of the sidewalk space or that space between the curb line and the lot line.

#### **SECTION 4-208: ALLEYS; OBSTRUCTION; LOADING AND UNLOADING**

A. No vehicle while parked shall have any portion thereof projecting into any alley entrance. (Neb. Rev. Stat. §60-680)

B. No vehicle shall be parked in any alley except for the purpose of loading or unloading during the time necessary to load or unload, which shall not exceed the maximum limit of five minutes. Every vehicle while loading or unloading in any alley shall be parked in such manner as will cause the least obstruction possible to traffic in such alley. (Neb. Rev. Stat. §60-680)

#### **SECTION 4-209: EMERGENCY VEHICLES; EXCEPTION**

The provisions of this article regulating the movement, parking, and standing of vehicles shall not apply to any authorized emergency vehicle while the driver of such vehicle is operating the same in an emergency. (Neb. Rev. Stat. §60-6,114)

#### **SECTION 4-210: FIRE HYDRANTS AND STATION**

No vehicle shall be parked (A) within 15 feet in either direction of any fire hydrant; (B) within 20 feet of the driveway entrance to any fire station; nor (C) on the side of the street opposite the entrance to any fire station within 75 feet of such entrance when properly signposted. Any vehicle or material found as an obstruction may be immediately removed by the fire chief or any member of the Fire Department at the risk,

cost, and expense of the owner or claimant. (Neb. Rev. Stat. §60-6,166)

#### **SECTION 4-211: SNOW REMOVAL; STREET MAINTENANCE OR CLEANING**

The Village Board shall have the power to order any street, alley or portion thereof vacated for weather emergencies and street maintenance or cleaning. Notice shall be given by personally notifying the owner or operator of a vehicle parked on such street or alley or by posting appropriate signs along such streets or alleys. Any person parking a vehicle in violation of this section shall be subject to the penalties provided in this chapter and such vehicle may be removed and parked under the supervision of village personnel to a suitable nearby location without further notice to the owner or operator of such vehicle. (Neb. Rev. Stat. §17-557)

#### **SECTION 4-212: DISPLAY OR REPAIR OF VEHICLE**

It shall be unlawful for any person to park upon any street, alley, or public place within the village any vehicle displayed for sale. No person shall adjust or repair any automobile or motorcycle or race the motor of same while on the public streets or alleys of this village, except in case of breakdown or other emergency. No person or employee connected with a garage or repair shop shall use sidewalks, streets, or alleys in the vicinity of such garage or shop for the purpose of working on automobiles or vehicles of any description. (Neb. Rev. Stat. §60-680)



## Article 3 – Bicycles and Mini-Bikes

### SECTION 4-301: BICYCLES

A. Persons operating bicycles shall observe all traffic signs and stop at all stop signs. No bicycle shall be operated faster than is reasonable and proper, but every bicycle shall be operated with reasonable regard to the safety of the operator and any other persons upon the streets and highways.

B. Any person who rides a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto. The rider shall not remove his or her feet from the pedals and shall have at least one hand on the handlebars at all times. No person shall operate a bicycle on a street or highway within the city with another person on the handlebars or in any position in front of the operator.

C. Any person who operates a bicycle shall not carry any package, bundle, or article which prevents such operator from keeping at least one hand upon the handlebars.

D. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

E. Any person who operates a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under conditions then existing shall ride as near to the right-hand curb or right-hand edge of the roadway as practicable except when:

1. Overtaking and passing another bicycle or vehicle proceeding in the same direction;
2. Preparing for a left turn onto a private road or driveway or at an intersection;
3. Reasonably necessary to avoid conditions that make it unsafe to continue along the right-hand curb or right-hand edge of the roadway, including fixed or moving objects, stopped or moving vehicles, bicycles, pedestrians, animals, or surface hazards;
4. Riding upon a lane of substandard width which is too narrow for a bicycle and a vehicle to travel safely side by side within the lane; or
5. Lawfully operating a bicycle on the paved shoulders of a highway included in the state highway system as provided in Neb. Rev. Stat. §60-6,142.

F. Any person who operates a bicycle upon a roadway with a posted speed

limit of 35 miles per hour or less on which traffic is restricted to one direction of movement and which has two or more marked traffic lanes may ride as near to the left-hand curb or left-hand edge of the roadway as practicable. Whenever a person operating a bicycle leaves the roadway to ride on the paved shoulder or leaves the paved shoulder to enter the roadway, the person shall clearly signal his or her intention and yield the right-of-way to all other vehicles.

G. Any person who operates a bicycle upon a highway shall not ride more than single file except on paths or parts of highways set aside for the exclusive use of bicycles.

H. Except as provided in Neb. Rev. Stat. §60-6,142, whenever a usable path for bicycles has been provided adjacent to a highway, a person operating a bicycle shall use such path and shall not use such highway.

I. When in use at nighttime, a bicycle shall be equipped with a light visible from a distance of at least 500 feet to the front on a clear night and with a red reflector on the rear of a type which is approved by the Department of Motor Vehicles or a local authority and which is visible on a clear night from all distances between 100 feet and 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. A red light visible from a distance of 500 feet to the rear may be used in addition to such red reflector.

J. Any bicycle used on a highway shall be equipped with a brake or brakes which will enable the operator to stop the bicycle within 25 feet of the point of braking when moving at a speed of 10 miles per hour on dry, level, clean pavement.

K. The City Council may by ordinance further regulate the operation of bicycles and may provide for the registration and inspection of bicycles.

L. No person shall park a bicycle on any sidewalk unless a bicycle stand is located on said sidewalk.

M. No person shall operate a bicycle on the sidewalks within the business district.  
(Neb. Rev. Stat. §60-6,315, 60-6,317, 60-6,318)

#### **SECTION 4-302: MINI-BIKES; UNLAWFUL OPERATION**

It shall be unlawful for any person to operate a mini-bike upon any street or highway within the corporate limits of the village. For purposes of this article, "mini-bike" shall mean a two-wheel motor vehicle which has a total wheel and tire diameter of less than 14 inches, an engine-rated capacity of less than 45 cubic centimeters displacement or a seat height less than 25 inches from the ground, or any other two-wheel motor vehicle primarily designed by the manufacturer for off-road use only. (Neb. Rev. Stat. §60-6,347, 60-6,352)

#### **SECTION 4-303: MINI-BIKES; EMERGENCIES AND PARADES**

Mini-bikes shall be exempt from the provisions of this article during any public emergency or while being used in parades by regularly organized units of any recognized charitable, social, educational or community service organization. (Neb. Rev. Stat. §60-6,348)

#### **SECTION 4-304: MINI-BIKES; PUBLIC LANDS**

Mini-bikes shall be prohibited upon the public lands owned by the village except where allowed by resolution of the Village Board. (Neb. Rev. Stat. §60-60-678)

#### **SECTION 4-305: MINI-BIKES; TRAFFIC LAWS INAPPLICABLE**

The provisions of Neb. Rev. Stat. Chapter 60, Articles 1, 3, 4, 5, and 17 shall not be applicable to the owners and operators of any mini-bike. (Neb. Rev. Stat. §60-6,347)

## **Article 4 – Mopeds and Motorcycles**

### **SECTION 4-401: MOPEDS; DEFINED; STATUTORY REGULATION**

“Moped” shall mean a bicycle with fully operative pedals for propulsion by human power, an automatic transmission, and a motor with a cylinder capacity not exceeding 50 cubic centimeters, which produces no more than two brake horsepower and is capable of propelling the bicycle at a maximum design speed of no more than 30 miles per hour on level ground. Mopeds, their owners, and their operators shall be subject to Neb. Rev. Stat. Chapter 60, Article 4 but shall be exempt from the requirements of Neb. Rev. Stat. Chapter 60, Articles 1, 3, 5, and 17. (Neb. Rev. Stat. §60-6,309)

### **SECTION 4-402: MOPEDS; OPERATOR'S LICENSE REQUIRED**

No person shall operate a moped upon the streets, alleys, or highways within the village unless such person has a valid Class O operator's license or a valid school or learner's permit. (Neb. Rev. Stat. §60-6,310)

### **SECTION 4-403: MOPEDS; TRAFFIC REGULATIONS APPLICABLE**

Any person who rides a moped upon a roadway shall have all the rights and shall be subject to all of the duties applicable to the driver of a motor vehicle under the Nebraska Rules of the Road except for special moped regulations in the rules and except for those provisions of the rules which by their nature can have no application. Such regulations applicable to mopeds shall apply whenever a moped is operated upon any street, alley, or highway within the village or upon any path set aside by the Department of Roads or the village for the use of mopeds. Notwithstanding any established maximum speed limits in excess of 25 miles per hour, no person shall operate any moped at a speed in excess of 30 miles per hour. (Neb. Rev. Stat. §60-6,311, 60-6,313)

### **SECTION 4-404: MOPEDS; USE OF TRAFFIC LANES**

A moped shall be entitled to full use of a traffic lane of any street or highway with an authorized speed limit of 45 miles per hour or less and no vehicle shall be operated in such a manner as to deprive any moped of the full use of such lane. This section shall not apply to mopeds operated two abreast in a single lane. No person shall operate a moped between lanes of traffic or between adjacent lines or rows of vehicles. Mopeds shall not be operated more than two abreast in a single lane. Any person who operates a moped on a roadway with an authorized speed limit of more than 45 miles per hour shall ride as near to the right side of the roadway as practicable and shall not ride more than single file. (Neb. Rev. Stat. §60-6,313)

**SECTION 4-405: MOPEDS; EQUIPMENT**

Any moped which carries a passenger shall be equipped with footrests for such passenger. No person shall operate any moped with handlebars more than 15 inches above the mounting point of the handlebars. (Neb. Rev. Stat. §60-6,312)

**SECTION 4-406: MOPEDS; HELMET REQUIRED**

A person shall not operate or be a passenger on a moped or motorcycle on any highway, as defined in state statutes, unless such person is wearing a protective helmet of the type and design manufactured for use by operators of such vehicles and unless such helmet is secured properly on his or her head with a chin strap while the vehicle is in motion. All such protective helmets shall be designed to reduce injuries to the user resulting from head impacts and shall be designed to protect the user by remaining on the user's head, deflecting blows, resisting penetration, and spreading the force of impact. Each such helmet shall consist of lining, padding, visor, and chin strap and shall meet or exceed the standards established in the United States Department of Transportation's *Federal Motor Vehicle Safety Standard No. 218*, 49 C.F.R. 571.218, for motorcycle helmets. (Neb. Rev. Stat. §60-6,279) (Ord. No. 205, 10/3/88)

**SECTION 4-407: MOTORCYCLES; OPERATION**

A. Any person who operates a motorcycle shall have all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under this chapter.

B. Any person who operates a motorcycle shall ride only upon a permanent, regular seat attached thereto and shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent, regular seat if designed for two persons or upon another seat firmly attached to the motorcycle to the rear or side of the operator.

C. Any person shall ride upon a motorcycle only while sitting astride the seat, facing forward.

D. No person shall operate a motorcycle while carrying any package, bundle or other article which prevents him or her from keeping both hands on the handlebars.

E. No operator shall carry any person nor shall any person ride in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

F. A motorcycle shall be entitled to full use of a traffic lane of any highway and no vehicle shall be driven in such a manner as to deprive any motorcycle of the full



use of such lane. This subsection shall not apply to motorcycles operated two abreast in a single lane.

G. The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

H. No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

I. Motorcycles shall not be operated more than two abreast in a single lane.

J. Subsections (G) and (H) of this section shall not apply to police officers in the performance of their official duties.  
(Neb. Rev. Stat. §60-6,307, 60-6,308)

#### **SECTION 4-408: MOTORCYCLES; LIGHTS**

No person shall ride a motorcycle upon the streets, alleys or highways from one-half hour after sunset to one-half hour before sunrise unless the same shall be equipped with at least one and not more than two headlights, plainly visible from the front; and a light on the rear exhibiting a red light visible under normal atmospheric conditions from a distance of at least 500 feet to the rear thereof; provided, said lights shall comply with the requirements and limitations of state statutes. (Neb. Rev. Stat. §60-6,219)

#### **SECTION 4-409: MOTORCYCLES; HELMET REQUIRED**

A person shall not operate or be a passenger on a motorcycle or moped on any highway, as defined in state statutes, unless such person is wearing a protective helmet as provided in Section 4-406.

## **Article 5 – Snowmobiles, All-Terrain and Utility-Type Vehicles and Low-Speed Vehicles**

### **SECTION 4-501: SNOWMOBILES; EQUIPMENT**

A. Every snowmobile operated within the village shall be registered with the State of Nebraska as required by law. No snowmobile shall be operated upon a public street or highway unless it is equipped with at least one headlamp, one taillamp, reflector material of a minimum area of 16 square inches mounted on each side forward of the handle bars, and with brakes as prescribed by the Director of Motor Vehicles.

B. All laws applying to the operation of other motor vehicles shall apply to snowmobiles, except those relating to required equipment and those which, by their nature, have no application.

(Neb. Rev. Stat. §60-6,332, 60-6,335)

### **SECTION 4-502: SNOWMOBILES; PUBLIC LANDS**

Snowmobiles shall be prohibited from operation on the public lands owned by the village, except where allowed by resolution of the Village Board. (Neb. Rev. Stat. §60-6,338)

### **SECTION 4-503: SNOWMOBILES; UNLAWFUL ACTS**

A. It shall be unlawful for any person to drive or operate any snowmobile in the following unsafe or harassing ways:

1. At a rate of speed greater than reasonable or proper under the surrounding circumstances.
2. In a careless, reckless or negligent manner so as to endanger person or property.
3. While under the influence of alcoholic liquor or any drug.
4. Without a lighted headlight and tail light when such would be required by conditions.
5. In any tree nursery or planting in a manner which damages or destroys growing stock.
6. Upon any private lands without first having obtained permission of the owner, lessee or operator of such lands.

(Neb. Rev. Stat. §60-6,337)

B. It shall be deemed a misdemeanor for any person to allow a snowmobile, either owned or operated by that person, to be operated within the congested area of the village unless weather conditions are such that it provides the only practicable method of safe vehicular travel or said snowmobile is engaged in responding to an emergency. (Neb. Rev. Stat. §60-6,337)

**SECTION 4-504: SNOWMOBILES; ENFORCEMENT**

Any law enforcement officer, including a conservation officer, may enforce the provisions relating to snowmobiles. (Neb. Rev. Stat. §60-6,343)

**SECTION 4-505: ALL-TERRAIN AND UTILITY-TYPE VEHICLES; DEFINITIONS**

A. "All-terrain vehicle" (ATV) means any motorized off-highway vehicle which (1) is 50 inches or less in width, (2) has a dry weight of 900 pounds or less, (3) travels on three or more low-pressure tires, (4) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger, (5) has a seat or saddle designed to be straddled by the operator, and (6) has handlebars or any other steering assembly for steering control. (Neb. Rev. Stat. §60-6,355)

B. "Utility-type vehicle" (UTV) means any motorized off-highway vehicle which (1) is not less than 48 inches nor more than 74 inches in width, (2) is not more than 135 inches in length, including the bumper, (3) has a dry weight of not less than 900 pounds nor more than 2,000 pounds, (4) travels on four or more low-pressure tires, and (5) is equipped with a steering wheel and bench or bucket-type seating designed for at least two people to sit side-by-side. "Utility-type vehicle" does not include golf carts or low-speed vehicles. (Neb. Rev. Stat. 60-6,355)

C. "Street" or "highway" means the entire width between the boundary limits of any street, road, avenue, boulevard, or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. (Neb. Rev. Stat. §60-624)

**SECTION 4-506: ALL-TERRAIN AND UTILITY-TYPE VEHICLES; OPERATION**

A. An ATV and a UTV may be operated on streets and highways within the corporate limits of the village only if the operator and the vehicle comply with the provisions of this section.

B. An ATV or UTV may be operated only between the hours of sunrise and sunset and shall not be operated at a speed in excess of 30 miles per hour. When operating an ATV or UTV as authorized herein, the headlight and taillight of the vehicle shall be on and it shall be equipped with a bicycle safety flag which extends not less than 5 feet above ground attached to the rear of such vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than 30 square inches and shall be Day-Glo in color.

C. Any person operating an ATV or UTV as authorized herein shall have:

1. A valid Class O operator's license or a farm permit as provided in Neb. Rev. Stat. 60-4,126; and

2. Liability insurance coverage for the ATV or UTV while being operated on a street or highway. The person operating the vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five days of such a request.

D. ATVs and UTVs may be operated without complying with subsections (B) and (C) of this section on streets and highways in parades which have been authorized by the State of Nebraska or any department, board, commission, or political subdivision of the state.

E. An ATV or a UTV shall not be operated on any controlled-access highway with more than two marked traffic lanes, and the crossing of any controlled-access highway with more than two marked traffic lanes shall not be permitted. Subsections (A) through (C) and (F) of this section authorize and apply to operation of an ATV or UTV only on a street or highway other than a controlled-access highway with more than two marked traffic lanes.

F. Subject to subsection (E) of this section, the crossing of a street or highway shall be permitted by an ATV or a UTV without complying with subsections (B) and (C) of this section only if:

1. The crossing is made at an angle of approximately 90° to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing;
2. The vehicle is brought to a complete stop before crossing the shoulder or roadway of the street or highway;
3. The operator yields the right of way to all oncoming traffic that constitutes an immediate potential hazard;
4. In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway; and
5. Both the headlight and taillight of the vehicle are on when the crossing is made.

(Neb. Rev. Stat. 60-6,356)

#### **SECTION 4-507: LOW-SPEED VEHICLES**

A. "Low-speed vehicle" means a four-wheeled motor vehicle (1) whose speed attainable in one mile is more than 20 miles per hour and not more than 25 miles per hour on a paved, level surface; (2) whose gross vehicle weight rating is less than 3,000 pounds; and (3) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2011. (Neb. Rev. Stat. §60-119.01, 60-336.01, 60-501, 60-605)

B. A low-speed vehicle may be operated on any highway on which the speed limit is not more than 35 miles per hour and may cross a highway on which the speed limit is more than 35 miles per hour. Nothing in this section shall prevent the village from adopting more stringent ordinances governing low-speed vehicle operation if the Village Board determines that such ordinances are necessary in the interest of public safety. Any person operating a low-speed vehicle as authorized under this section shall have a valid Class O operator's license and shall have liability insurance coverage for the vehicle. (Neb. Rev. Stat. §60-605(32))



## **Article 6 – Abandoned Vehicles**

### **SECTION 4-601: DEFINED**

A. A motor vehicle is an abandoned vehicle:

1. If left unattended, with no license plates or valid “In Transit” stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, for more than six hours on any public property;
2. If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;
3. If left unattended for more than 48 hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;
4. If left unattended for more than seven days on private property if left initially without permission of the owner, or after permission of the owner is terminated;
5. If left for more than 30 days in the custody of a law enforcement agency after the agency has sent a letter to the last-registered owner under Neb. Rev. Stat. §60-1903.01; or
6. If removed from private property by the village pursuant to a municipal ordinance.

B. For purposes of this section:

1. “Public property” means any public right of way, street, highway, alley, or park or other state, county, or municipally owned property; and
2. “Private property” means any privately owned property which is not included within the definition of public property.

C. No motor vehicle subject to forfeiture under state statutes shall be an abandoned vehicle under this section.  
(Neb. Rev. Stat. §60-1901)

### **SECTION 4-602: ABANDONMENT OF VEHICLE PROHIBITED**

No person shall cause any vehicle to be an abandoned vehicle as described in Section 4-601 (A)(1), (2), (3), or (4). (Neb. Rev. Stat. §60-1907)

**SECTION 4-603: TITLE; VEST IN LOCAL AUTHORITY OR STATE AGENCY**

If an abandoned vehicle, at the time of abandonment, has no license plates of the current year or valid "In Transit" stickers issued pursuant to state statute affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of \$250.00 or less, title shall immediately vest in the Village Board or state agency having jurisdiction thereof as provided in Section 4-606 (Custody). Any certificate of title issued under this section to the Village Board or state agency shall be issued at no cost to such authority or agency. (Neb. Rev. Stat. §60-1902)

**SECTION 4-604: LOCAL AUTHORITIES; POWERS AND DUTIES**

A. Except for vehicles governed by Section 4-603, the Village Board having custody of an abandoned vehicle shall make an inquiry concerning the last-registered owner of such vehicle as follows:

1. With license plates affixed, to the jurisdiction which issued such license plates; or
2. With no license plates affixed, to the Department of Motor Vehicles.

B. The Village Board shall notify the last-registered owner, if any, that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed, either (1) it will be sold or will be offered at public auction after five days from the date such notice was mailed or (2) title will vest in the Village Board 30 days after the date such notice was mailed. If the agency described in subdivision (A)(1) or (2) of this section also notifies the Village Board that a lien or mortgage exists, such notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.

C. Title to an abandoned vehicle, if unclaimed, shall vest in the Village Board (1) five days after the date the notice is mailed if the vehicle will be sold or offered at public auction, (2) 30 days after the date the notice is mailed if the board will retain the vehicle, or (3) if the last-registered owner cannot be ascertained, when notice of such fact is received.

D. After title to the abandoned vehicle vests pursuant to subsection (C) of this section, the Village Board may retain for use, sell, or auction the abandoned vehicle. If the board has determined that the vehicle should be retained for use, the board shall, at the same time that the notice, if any, is mailed, publish in a newspaper of general circulation in the village an announcement that the Village Board intends to retain the abandoned vehicle for its use and that title will vest in the board 30 days after the publication.

(Neb. Rev. Stat. §60-1903)

**SECTION 4-605: LAW ENFORCEMENT AGENCY; POWERS AND DUTIES**

A local law enforcement agency which has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody shall send a certified letter to each of the last-registered owners stating that the vehicle is in the custody of the said law enforcement agency, that the vehicle is no longer needed for law enforcement purposes, and that after 30 days the agency will dispose of the vehicle. This section shall not apply to motor vehicles subject to forfeiture under state statutes. No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this section unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the law enforcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees. (Neb. Rev. Stat. §60-1903.01)

**SECTION 4-606: CUSTODY; WHO ENTITLED**

If a state agency caused an abandoned vehicle described in Section 4-601 (A)(5) to be removed from public property, the state agency shall be entitled to custody of the vehicle. If a state agency caused an abandoned vehicle described in Section 4-601 (A)(1), (2), (3), or (4) to be removed from public property, the state agency shall deliver the vehicle to the Village Board, which shall have custody. The board shall be entitled to custody of an abandoned vehicle if the said vehicle was abandoned in the village. (Neb. Rev. Stat. §60-1904)

**SECTION 4-607: PROCEEDS OF SALE; DISPOSITION**

Any proceeds from the sale of an abandoned vehicle less any expenses incurred by the Village Board shall be held by the board without interest for the benefit of the owner or lienholders of such vehicle for a period of two years. If not claimed within such two-year period, the proceeds shall be paid into the general fund of the village. (Neb. Rev. Stat. §60-1905)

**SECTION 4-608: LIABILITY FOR REMOVAL**

Neither the owner, lessee, nor occupant of the premises from which any abandoned vehicle is removed nor the village shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the village or its contractual agent or as a result of any subsequent disposition. (Neb. Rev. Stat. §60-1906)

**SECTION 4-609: DESTROY, DEFACE, OR REMOVE PARTS; UNLAWFUL; EXCEPTION; VIOLATION; PENALTY**

No person other than one authorized by the Village Board shall destroy, deface, or

remove any part of a vehicle which is left unattended on a highway or other public place without license plates affixed or which is abandoned. Anyone violating this section shall be guilty of a Class V misdemeanor. (Neb. Rev. Stat. §60-1908)

**SECTION 4-610: COSTS OF REMOVAL AND STORAGE; LAST REGISTERED OWNER LIABLE**

The last registered owner of an abandoned vehicle shall be liable to the Village Board for the costs of removal and storage of such vehicle. (Neb. Rev. Stat. §60-1909)

## **Article 7 – Penal Provisions**

### **SECTION 4-701: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

### **SECTION 4-702: ABATEMENT OF NUISANCE**

Whenever a nuisance exists as defined in this code, the village may proceed by a suit in equity to enjoin and abate the same in the manner provided by law. Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (Neb. Rev. Stat. §18-1720, 18-1722)



## **CHAPTER 5 – BUSINESS REGULATIONS**

### **ARTICLE 1 – ALCOHOLIC BEVERAGES**

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**ARTICLE 4 – PENAL PROVISION**

**SECTION 5-401: VIOLATION; PENALTY**

## **CHAPTER 5 – BUSINESS REGULATIONS**

### **Article 1 – Alcoholic Beverages**

#### **SECTION 5-101: DEFINITIONS**

All words and phrases herein used are to have the definitions applied thereto as defined in the Liquor Control Act of the State of Nebraska. (Neb. Rev. Stat. §53-103)

#### **SECTION 5-102: ACQUISITION AND POSSESSION**

It shall be unlawful for any person to purchase, receive, acquire, accept, or possess any alcoholic liquor acquired from any other person other than one duly licensed to handle alcoholic liquor under the Nebraska Liquor Control Act. Nothing in this section shall prevent:

A. The possession of alcoholic liquor for the personal use of the possessor and his or her family and guests, as long as the quantity of alcoholic liquor transported, imported, brought, or shipped into the state does not exceed nine liters in any one calendar month;

B. The making of wine, cider, or other alcoholic liquor by a person from fruits, vegetables, or grains or the products thereof by simple fermentation and without distillation, if made solely for the use of the maker and his or her family and guests;

C. Any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, any hospital or other institution caring for sick and diseased persons from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or other institution or any drug store employing a licensed pharmacist from possessing or using alcoholic liquor in compounding of prescriptions of licensed physicians;

D. The possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church;

E. Persons who are 16 years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor;

F. Persons who are 16 years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment;

G. Persons who are 16 years old or older from removing and disposing of alcoholic liquor containers for the convenience of the employer and customers in the course of their employment; or

H. Persons who are 19 years old or older from serving or selling alcoholic liquor in the course of their employment.

(Neb. Rev. Stat. §53-168.06, 53-175, 53-194.03)

### **SECTION 5-103: DRINKING ON PUBLIC PROPERTY; POSSESSION OF OPEN ALCOHOLIC BEVERAGE CONTAINER**

A. Except when the Nebraska Liquor Control Commission has issued a license as provided in Neb. Rev. Stat. §53-186(2), it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property. (Neb. Rev. Stat. §53-186(1))

B. It is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or on any highway in this village.

C. Except as provided in Neb. Rev. Stat. §53-186, it is unlawful for any person to consume an alcoholic beverage (1) in a public parking area or on any highway in this village or (2) inside a motor vehicle while in a public parking area or on any highway in this village.

D. For purposes of this division:

1. "Alcoholic beverage" means (a) beer, ale porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor; (b) wine of not less than one-half of one percent of alcohol by volume; or (c) distilled spirits, which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced. "Alcoholic beverage" does not include trace amounts not readily consumable as a beverage;
2. "Highway" means a road or street including the entire area within the right-of-way;
3. "Open alcoholic beverage container" means any bottle, can, or other receptacle that (a) contains any amount of alcoholic beverage; and (b) is open or has a broken seal; or (c) the contents of which are partially removed; and
4. "Passenger area" means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in such area. "Passenger area"

does not include the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(Neb. Rev. Stat. §60-6,211.08)

## **SECTION 5-104: CONSUMPTION IN PUBLIC PLACES; LICENSE**

A. Pursuant to Neb. Rev. Stat. §53-124.11, a Village Board may provide procedures for approval of special designated liquor licenses; and pursuant to such authority, the Village Board hereby appoints the village clerk as the designated village official to approve or deny applications for a special designated liquor license.

B. That prior to approval of any such special designated liquor license, the applicant shall provide the following information with the application:

1. In the event of an anticipated large crowd of people, the village clerk may require a detailed plan for traffic control and vehicle parking for event participants.
2. A statement that the proposed activity will comply with all village ordinances and state statutes.
3. A detailed, workable plan to prevent underage persons from purchasing or possessing alcoholic liquor on or about the premises.

C. The village clerk shall *not* approve such special designated liquor license when:

1. The application is made by a licensee to authorize the consumption of alcoholic liquors on other property owned or leased by the licensee, which said property is not adjacent to the licensee's existing licensed premises.
2. No workable plan is provided to prevent underage persons from purchasing or possessing alcoholic liquor on or about the premises to be licensed.
3. When any municipal department of the Village notifies the village clerk that the issuance of such license shall violate any applicable fire code, building code, health code or other applicable ordinance or regulation.
4. The application is made by a corporation, association, organization or other legal entity whose local membership consists of a majority of individuals who are under the legal drinking age, where the use of such special designated liquor license is for a social event for such corporation, association, organization or legal entity.

5. The area included within a special designated permit is outside of any fully enclosed structure, except when the application is made in conjunction with a festival or other similar sponsored or supported community event.
6. The application requests authorization to sell or consume alcoholic liquors beyond the hours for sale at retail and dispensing authorized by the Roca Municipal Code.

D. In the event that the village clerk denies a request for a special designated liquor license for any reason, the applicant may resubmit the application to be heard by the Village Board.

E. In the event that the village clerk determines that the application complies with (B) and (C) above, the clerk shall forthwith approve such application and notify the Nebraska Liquor Control Commission of said approval.

(Ord. No. 2017-02, 09/11/17)

#### **SECTION 5-105: LICENSE REQUIRED**

It shall be unlawful for any person to manufacture for sale, sell, keep for sale, or to barter any alcoholic liquors within the village unless said person shall have in full force and effect a license as provided by the Nebraska Liquor Control Act. (Neb. Rev. Stat. §53-168.06)

#### **SECTION 5-106: VILLAGE POWERS AND DUTIES**

A. The Village Board is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail, craft brewery, and microdistillery licensees carried on within the corporate limits of the village. (Neb. Rev. Stat. §53-134.03)

B. During the period of 45 days after the date of receiving from the Nebraska Liquor Control Commission an application for a new license to sell alcoholic liquor at retail or a craft brewery or microdistillery license, the Village Board may make and submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant. (Neb. Rev. Stat. §53-131(2))

C. The Village Board, with respect to licenses within the corporate limits of the village, has the following powers, functions, and duties with respect to retail, craft

(SEAL)

brewery and microdistillery licenses:

1. To cancel or revoke for cause retail, craft brewery and microdistillery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the commission.



2. To enter or authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act to determine whether any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation adopted by the Village Board has been or is being violated and at such time examine the premises of such licensee in connection with such determination.
3. To receive a signed complaint from any citizen within its jurisdiction that any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule or regulation relating to alcoholic liquor has been or is being violated and to act upon such complaints in the manner provided in the act.
4. To receive retail, craft brewery and microdistillery license fees as provided in Neb. Rev. Stat. §53-124 and 53-124.01 and pay the same to the village treasurer after the license has been delivered to the applicant.
5. To examine or cause to be examined any applicant or any retail, craft brewery or microdistillery licensee upon whom notice of cancellation or revocation has been served as provided in the Act, to examine or cause to be examined the books and records of any applicant or licensee, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the Village Board may authorize its agent or attorney to act on its behalf.
6. To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in Neb. Rev. Stat. §53-134.04, it determines that the licensee has violated any of the provisions of Act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. Such order of cancellation or revocation may be appealed to the commission within 30 days after the date of the order by filing a notice of appeal with the commission, which shall handle the appeal in the manner provided for hearing on an application in Neb. Rev. Stat. §53-133.
7. Upon receipt from the commission of the notice and copy of application as provided in Neb. Rev. Stat. §53-131, to fix a time and place for a hearing at which the Village Board shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in the village, one time not less than seven and not more than 14 days before the time of the hearing. Such notice shall include but not be limited to a statement that all persons desiring to give evidence be-

fore the Village Board in support of or in protest against the issuance of such license may do so at the time of the hearing. Said hearing shall be held not more than 45 days after the date of receipt of the notice from the commission, and after such hearing the Village Board shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of such license. The village clerk shall mail to the commission by first class mail, postage prepaid, a copy of the resolution, which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the commission. If the commission refuses to issue such a license, the cost of publication of notice shall be paid by the commission from the security for costs.

D. When the Nebraska Liquor Control Commission mails or delivers to the village clerk a license issued or renewed by it, the clerk shall deliver the license to the licensee upon proof of payment of (1) the license fee if, by the terms of Neb. Rev. Stat. §53-124(5), the fee is payable to the village treasurer; (2) any fee for publication of notice of hearing before the Village Board upon the application for license; (3) the fee for publication of notice of renewal, if applicable, as provided in Neb. Rev. Stat. §53-135.01; and (4) occupation taxes, if any, imposed by the village.

E. Notwithstanding any ordinance or charter power to the contrary, the village shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the village in any sum which exceeds two times the amount of the license fee required to be paid under the Act to obtain such license.

(Neb. Rev. Stat. §53-131, 53-132, 53-134)

### **SECTION 5-107: LICENSEE REQUIREMENTS**

It shall be unlawful for any person or persons to own an establishment that sells at retail any alcoholic beverages unless said person is a resident of the county in which the premises are located; a person of good character and reputation; a citizen of the United States; a person who has never been convicted of a felony or any Class I misdemeanor pursuant to Neb. Rev. Stat. Chapter 28, Article 3, 4, 7, 8, 10, 11, or 12, or any similar offense under a prior criminal statute or in another state; a person who has never had a liquor license revoked for cause; a person whose premises for which a license is sought meets standards for fire safety as established by the state fire marshal. (Neb. Rev. Stat. §53-125)

### **SECTION 5-108: LOCATION**

It shall be unlawful for any person or persons to own, maintain, manage, or hold open to the public any establishment for the purpose of selling at retail any alcoholic liquor within 150 feet of any church, school, hospital, or home for aged or indigent persons or for veterans, their wives or children. This prohibition does not apply to any location

within such distance when the said establishment has been licensed by the Nebraska Liquor Control Commission at least two years and to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops, or other places where the selling of alcoholic liquors is not the principal business carried on, if the business was licensed and in operation prior to May 24, 1935. No alcoholic liquor other than beer shall be sold for consumption on the premises within 300 feet from the campus of any college within the village. (Neb. Rev. Stat. §53-177)

#### **SECTION 5-109: ACCESS TO DWELLINGS**

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises having any access which leads from such premises to any other portion of the same building used for dwelling or lodging purposes and which is permitted to be used or kept accessible for use by the public. Nothing herein shall prevent any connection with such premises and such other portion of the building that is used only by the licensee, his or her family, or personal guests. (Neb. Rev. Stat. §53-178)

#### **SECTION 5-110: SANITARY CONDITIONS**

It shall be unlawful to open for public use any retail liquor establishment that is not in a clean and sanitary condition. Toilet facilities shall be adequate and convenient for customers and patrons and said licensed premises shall be subject to any health inspections the Village Board or the village police may make or cause to be made. All applications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions, and a report concerning the said sanitary conditions shall be made at all hearings concerning the application for or renewal of a liquor license. (Neb. Rev. Stat. §53-118)

#### **SECTION 5-111: CATERING LICENSES**

A. The holder of a Class C, Class D, or Class I license issued under Neb. Rev. Stat. §53-124(5) or a craft brewery license may obtain an annual catering license by filing an application and license fee with the Nebraska Liquor Control Commission. (Neb. Rev. Stat. §53-124.12(1))

B. Upon receipt from the commission of the notice and copy of the application as provided in Neb. Rev. Stat. §53-124.12, the Village Board shall process the application in the same manner as provided in Section 5-106 (Village Powers and Duties). (Neb. Rev. Stat. §53-124.12(3))

#### **SECTION 5-112: LICENSE DISPLAYED**

Every licensee under the Nebraska Liquor Control Act shall cause his or her license to be framed and hung in plain public view in a conspicuous place on the licensed premises. (Neb. Rev. Stat. §53-148)

#### **SECTION 5-113: HOURS OF SALE**

A. For the purposes of this section:

1. "On sale" shall be defined as alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment.
2. "Off sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

B. It shall be unlawful for any licensed person or persons or their agents to sell at retail or dispense any alcoholic beverages within the village except during the hours provided herein:

<b>Alcoholic Liquors (except Beer and Wine)</b>	
Monday through Saturday	
Off Sale	8:00 a.m. to 1:00 a.m.
On Sale	6:00 a.m. to 2:00 a.m.
Sunday	
Off Sale	Noon to 1:00 a.m.
On Sale	Noon to 2:00 a.m.
<b>Beer and Wine</b>	
Daily	
Off Sale	8:00 a.m. to 1:00 a.m.
On Sale	6:00 a.m. to 2:00 a.m.
Sunday	
Off Sale	Noon to 1:00 a.m.
On Sale	Noon to 2:00 a.m.

C. Such limitations shall not apply after 12:00 noon on Sunday to a licensee which is a nonprofit corporation and the holder of a Class C or Class I license.

D. It shall be unlawful on property licensed to sell alcoholic liquor at retail to allow alcoholic liquor in open containers to remain or be in possession or control of any person for purposes of consumption between fifteen minutes after the closing hour applicable to the licensed premises and 6:00 a.m. on any day.

E. Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which this section prohibits the sale or dispensing of alcoholic beverages.

(Neb. Rev. Stat. §53-179)

## **SECTION 5-114: INSPECTIONS**

The Liquor Control Commission and Village Board shall cause frequent inspections to be made on the premises of all retail licensees and if it is found that any such licensee is violating any provision of the Nebraska Liquor Control Act or the rules and

regulations of the commission adopted and promulgated under the Act or is failing to observe in good faith the purposes of the Act, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in his or her defense. (Neb. Rev. Stat. §53-116.01)

#### **SECTION 5-115: OWNER OF PREMISES**

The owner of any premises used for the sale at retail of alcoholic beverages shall be deemed guilty of a violation of these laws to the same extent as the said licensee if the owner shall knowingly permit the licensee to use the said licensed premises in violation of any municipal code section or Nebraska statute. (Neb. Rev. Stat. §53-1,101)

#### **SECTION 5-116: EMPLOYER**

The employer of any officer, director, manager, or employee working in a retail liquor establishment shall be held to be liable and guilty of any act or omission or violation of any law or ordinance. Each such act or omission shall be deemed and held to be the act of the employer and will be punishable in the same manner as if the said act or omission had been committed by him or her personally. (Neb. Rev. Stat. §53-1,102)

#### **SECTION 5-117: HIRING MINORS**

It shall be unlawful for any person to hire minors under the age of 19 years to serve or dispense alcoholic liquors, including beer, in the course of their employment. (Neb. Rev. Stat. §53-168.06)

#### **SECTION 5-118: MINOR'S PRESENCE**

It shall be unlawful for any person or persons who own, manage, or lease an establishment selling alcoholic beverages at retail to allow any minor under the age of 18 years to frequent or otherwise remain in the said establishment unless the said minor is accompanied by a parent or legal guardian and unless said minor remains seated with and under the immediate control of the said parent or legal guardian. (Neb. Rev. Stat. §53-134.03)

#### **SECTION 5-119: MINORS AND INCOMPETENTS**

It shall be unlawful for any person or persons to sell, give away, dispose of, exchange, permit the sale of or make a gift of any alcoholic liquors or to procure any such alcoholic liquors to or for any minor or any person who is mentally incompetent. (Neb. Rev. Stat. §53-180)

#### **SECTION 5-120: CREDIT SALES**

No person shall sell or furnish alcoholic liquor at retail to any person on credit, on a passbook, on an order on a store, in exchange for any goods, wares, or merchandise, or in payment for any services rendered, and if any person extends credit for

any such purpose, the debt thereby attempted to be created shall not be recoverable at law. Nothing in this section shall prevent any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members or guests of members and charged to the accounts of the said members or guests in accordance with the bylaws of any such club, and nothing in this section shall prevent any hotel or restaurant holding a retail alcoholic beverage license from permitting checks or statements for liquor to be signed by regular guests residing in the said hotel and charged to the accounts of such guests. (Neb. Rev. Stat. §53-183)

#### **SECTION 5-121: ORIGINAL PACKAGE**

It shall be unlawful for any person or persons who own, manage, or lease any premises in which the sale of alcoholic beverages is licensed to have in their possession for sale at retail any alcoholic liquors contained in bottles, casks, or other containers except in the original package. (Neb. Rev. Stat. §53-184)

#### **SECTION 5-122: CONDUCT PROHIBITED ON LICENSED PREMISES**

No licensee in this village shall engage in, allow or suffer in or upon the licensed premises any disturbances, lewdness, immoral activities or displays, brawls or unnecessary noise; or allow, permit or suffer the licensed premises to be used in such a manner as to create public censure or become a nuisance, public or private.

#### **SECTION 5-123: AUTOMATIC LICENSE RENEWAL**

A. Outstanding retail licenses issued by the commission may be automatically renewed in the absence of a request by the Village Board to require the said licensee to submit an application for renewal. Any licensed retail or bottle club establishment located in an area which is annexed to the village shall file a formal application for a license and while such application is pending, the licensee shall be authorized to continue all license privileges pursuant to this article until the original license expires, is canceled, or revoked. If such license expires within 60 days following the annexation date of such area, the license may be renewed by order of the commission for not more than one year.

B. The village clerk, upon notice from the commission, shall cause to be published in a legal newspaper in or of general circulation in the village one time between January 10 and January 30 each year a notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the village; provided, Class C license renewal notices shall be published between July 10 and July 30 each year. Upon the conclusion of any hearing required by this section, the Village Board may request a licensee to submit an application.  
(Neb. Rev. Stat. §53-135, 53-135.01)

#### **SECTION 5-124: PROTESTS AGAINST RENEWAL**

In the event written protests are filed by three or more residents of the village against



said license and a hearing is held, the Village Board may request a licensee to submit an application as provided in Neb. Rev. Stat. §53-135. (Neb. Rev. Stat. §53-135.01)

## **SECTION 5-125: CITIZEN COMPLAINTS**

A. Any five residents of the village shall have the right to file a complaint with the Village Board stating that any retail licensee subject to the jurisdiction of the board has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the Act. Such complaint shall be in writing in the form prescribed by the Village Board and shall be signed and sworn by the parties complaining. The complaint shall state the particular provision, rule or regulation believed to have been violated and the facts in detail upon which belief is based.

B. If the Village Board is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint. The complaint must in all cases be disposed of by the Village Board within 30 days from the date the complaint was filed by resolution thereof and said resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided in Neb. Rev. Stat. §53-1,115.

(Neb. Rev. Stat. §53-134.04)

## **SECTION 5-126: FORM FOR CITIZEN COMPLAINT**

The following form is hereby prescribed for the use of residents of this village desiring to complain to the chairman and the Village Board that any licensee is violating any provision of the Nebraska Liquor Control Act, regulations prescribed by the Nebraska Liquor Control Commission or any provision of this ordinance:

To the Chairman and Village Board of the Village of Roca, Nebraska:

The undersigned respectfully state:

1. That each one is a resident of the Village of Roca, Nebraska.
2. That they believe that \_\_\_\_\_, the holder of a Class \_\_\_\_ license in the aforesaid village, has violated Section \_\_\_\_\_ of (check one or more):

\_\_\_\_\_ the Nebraska Liquor Control Act.

\_\_\_\_\_ the regulations prescribed by the Nebraska Liquor Control Commission.

\_\_\_\_\_ the municipal code of the Village of Roca, Nebraska.

3. That the aforesaid belief is based on the following facts, to-wit:

---

\_\_\_\_\_  
(Name)\_\_\_\_\_  
(Name)\_\_\_\_\_  
(Name)\_\_\_\_\_  
(Name)\_\_\_\_\_  
(Name)

STATE OF NEBRASKA            )  
   ) ss.  
 COUNTY OF LANCASTER        )

Subscribed in my presence and sworn to before me by \_\_\_\_\_,  
 \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. and  
 \_\_\_\_\_

My commission expires \_\_\_\_\_.

\_\_\_\_\_  
 Notary Public

### **SECTION 5-127: COMPLAINT INITIATED BY BOARD**

The Village Board may on its own motion by resolution fix the time and place for a hearing on whether a licensee has violated any section of the Nebraska Liquor Control Act, the regulations of the Nebraska Liquor Control Commission or this code, which resolution shall state the section or sections in question. Said resolution shall be served in the same manner and within the same time as the initial resolution mentioned in Section 5-125 (Citizen Complaints), and insofar as possible the procedure shall be the same as is provided in that section. (Neb. Rev. Stat. §53-134)

### **SECTION 5-128: REVOCATION OF LICENSE**

Whenever any licensee has been convicted by any court of a violation of the Nebraska Liquor Control Act, the licensee may, in addition to the penalties for such offense, incur a forfeiture of the license and all money that had been paid for the license. The Village Board may conditionally revoke the license subject to a final order of the Liquor Control Commission or the commission may revoke the license in an original proceeding brought before it for that purpose. (Neb. Rev. Stat. §53-116.02)

### **SECTION 5-129: REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY**

A. City police, county sheriffs, officers of the Nebraska State Patrol, and any other such law enforcement officer with power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself,

herself, or others, or who is otherwise incapacitated from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take such intoxicated person to his or her home or to place such person in any hospital, clinic, alcoholism center, or with a medical doctor as may be necessary to preserve life or to prevent injury. Such effort at placement shall be deemed reasonable if the officer contacts those facilities or doctors which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If such efforts are unsuccessful or are not feasible, the officer may then place such intoxicated person in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury and under no circumstances for longer than 24 hours.

B. The placement of such person in civil protective custody shall be recorded at the facility or jail to which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to such person designated by the person taken into civil protective custody.

C. The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for such actions.

D. The taking of an individual into civil protective custody under this section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

E. For purposes of this section, "public property" shall mean any public right-of-way, street, highway, alley, park, or other state-, county- or village-owned property. "Quasi-public property" shall mean and include private or publicly owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress.

(Neb. Rev. Stat. §53-1,121)

## **Article 2 – Peddlers and Solicitors**

### **SECTION 5-201: REGISTRATION; ISSUANCE OF PERMIT**

To prevent the sale of fraudulent, dangerous and unhealthful goods and services; to protect the public by maintaining records of the products sold and the persons and companies responsible for such sales; all peddlers and solicitors shall, register with the village clerk before doing business within the village. Said registration shall contain all the necessary information and documents required for the protection of the residents of the village. Any person or persons granted a peddlers' and solicitors' permit shall be subject to any fees, occupation taxes, and other rules and regulations which the Village Board deems appropriate for the purposes stated herein. It shall be unlawful at any hour for a solicitor, salesman, or peddler to solicit without a proper permit on his or her person at all times. Any permit so granted shall be subject to revocation for good and sufficient cause. (Neb. Rev. Stat. §17-525)

### **SECTION 5-202: EXCEPTIONS**

Nothing herein shall be construed to apply to any person or persons selling produce raised within the county, to wholesale salesmen soliciting merchants directly, or to a representative of a non-profit or charity organization soliciting on behalf of that organization.

### **SECTION 5-203: HOURS**

It shall be unlawful to make calls as a solicitor or peddler to prospective customers before 8:00 a.m. or after 6:00 p.m. any day unless requested to do so by the prospective customer. (Neb. Rev. Stat. §17-134)

## **Article 3 – Occupation Taxes**

### **SECTION 5-301: AMOUNTS**

For the purpose of raising revenue, occupations subject to taxes and the amounts of such taxes shall be established by ordinance from time to time by the Village Board. Said ordinance shall be on file in the office of the village clerk, available for public inspection during office hours. (Neb. Rev. Stat. §17-525)

### **SECTION 5-302: FIRE INSURANCE COMPANIES**

For the use, support, and maintenance of the Fire Department, all revenue realized from the occupation tax on fire insurance companies shall be appropriated to the Fire Department fund. (Neb. Rev. Stat. §35-106)

### **SECTION 5-303: COLLECTION DATE**

All occupation taxes shall be due and payable on May 1 each year, except in the event that the said tax is levied daily. Upon the payment thereof by any person or persons, the village clerk shall give a receipt, properly dated and specifying the person paying the said tax and the amount paid; provided, occupation taxes collected from Class C liquor licensees shall be due and payable on November 1. The revenue collected shall then be immediately deposited into the general fund by the village treasurer. All forms and receipts herein mentioned shall be issued in duplicate and one copy shall then be kept by each party in the transaction. (Neb. Rev. Stat. §17-525)

### **SECTION 5-304: CERTIFICATE**

The receipt issued after the payment of any occupation tax shall be the Occupation Tax Certificate. The said certificate shall specify the amount of the tax and the name of the person and business that paid the said tax. The Occupation Tax Certificate shall then be displayed in a prominent place or carried in such a way as to be easily accessible while business is being conducted. (Neb. Rev. Stat. §17-525)

### **SECTION 5-305: FAILURE TO PAY**

If any person, company, or corporation fails or neglects to pay the occupation taxes as provided herein on the day they become due and payable, the village shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of 1% per month until paid. (Neb. Rev. Stat. §17-525)

## **Article 4 – Penal Provision**

### **SECTION 5-401: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.



## **CHAPTER 6 – PUBLIC WAYS AND PROPERTY**

### **ARTICLE 1 – MUNICIPAL PROPERTY**

- SECTION 6-101: DEFINITIONS**
- SECTION 6-102: GENERAL AUTHORITY**
- SECTION 6-103: REMOVING DIRT**
- SECTION 6-104: OBSTRUCTIONS**
- SECTION 6-105: OVERHANGING BRANCHES**
- SECTION 6-106: CONSTRUCTION MATERIALS; PERMIT REQUIRED**
- SECTION 6-107: BARRICADES AND LIGHTS**
- SECTION 6-108: EAVE AND GUTTER SPOUTS**
- SECTION 6-109: DAMAGE**
- SECTION 6-110: CUTTING CURB; PERMIT, DEPOSIT AND BOND**
- SECTION 6-111: HEAVY EQUIPMENT**
- SECTION 6-112: REAL PROPERTY; ACQUISITION; AUTHORIZATION**
- SECTION 6-113: REAL PROPERTY; ACQUISITION; APPRAISAL**
- SECTION 6-114: REAL PROPERTY; ACQUISITION; CONSTRUCTION; ELECTIONS, WHEN REQUIRED**
- SECTION 6-115: REAL PROPERTY; SALE AND CONVEYANCE**
- SECTION 6-116: PERSONAL PROPERTY; SALE AND CONVEYANCE**
- SECTION 6-117: SPECIAL IMPROVEMENT DISTRICT; ASSESSMENT AND CREATION PROCEDURE**
- SECTION 6-118: SPECIAL ASSESSMENTS; LAND ADJACENT; DEFERRAL**

### **ARTICLE 2 – STREETS**

- SECTION 6-201: NAMES AND NUMBERS**
- SECTION 6-202: WIDENING OR OPENING**
- SECTION 6-203: CROSSINGS**
- SECTION 6-204: EXCAVATION**
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- SECTION 6-209: DRIVEWAY APPROACHES**
- SECTION 6-210: POWER TO IMPROVE**
- SECTION 6-211: IMPROVEMENT DISTRICTS; SPECIAL ASSESSMENTS**
- SECTION 6-212: IMPROVEMENT OF STREETS ON CORPORATE LIMITS**
- SECTION 6-213: PETITION FOR IMPROVEMENTS**
- SECTION 6-214: IMPROVEMENT DISTRICTS; OBJECTIONS**
- SECTION 6-215: IMPROVEMENT OF MAIN THOROUGHFARES**
- SECTION 6-216: CONSTRUCTION ASSESSMENT**
- SECTION 6-217: CONSTRUCTION NOTICE**
- SECTION 6-218: VACATING PUBLIC WAYS; PROCEDURE**

**SECTION 6-219: VACATING PUBLIC WAYS; DEFINITIONS;  
ASCERTAINING DAMAGES**

**SECTION 6-220: VACATING PUBLIC WAYS; TITLE**

**ARTICLE 3 – SIDEWALKS**

**SECTION 6-301: DUTY TO KEEP CLEAN**

**SECTION 6-302: MAINTENANCE AND REPAIR**

**SECTION 6-303: CONSTRUCTION BY OWNER; APPLICATION, PERMIT**

**SECTION 6-304: CONSTRUCTION BY VILLAGE**

**SECTION 6-305: CONSTRUCTION BY PETITION**

**ARTICLE 4 – CONSTRUCTION OF PRIVATE DRIVES**

**SECTION 6-401: APPLICATION**

**SECTION 6-402: SPECIFICATIONS**

**ARTICLE 5 – PENAL PROVISION**

**SECTION 6-501: VIOLATION; PENALTY**

## **CHAPTER 6 – PUBLIC WAYS AND PROPERTY**

### **Article 1 – Municipal Property**

#### **SECTION 6-101: DEFINITIONS**

The following definition shall be applied throughout this chapter. When no definition is specified, the normal dictionary usage of the word shall apply:

"Sidewalk space" as used herein shall mean that portion of a street between curb lines and adjacent property lines.

#### **SECTION 6-102: GENERAL AUTHORITY**

A. The Village Board shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the village and shall cause the same to be kept open, in repair, and free from nuisances. (Neb. Rev. Stat §17-567)

B. The village shall have the power to prevent and remove all encroachments, including snow, ice, and other similar obstructions upon all sidewalks and other village property. (Neb. Rev. Stat. §17-557, 17-558)

#### **SECTION 6-103: REMOVING DIRT**

It is hereby declared unlawful for any person to remove, disturb, or take away from any street, alley, or public grounds any dirt, earth, stones, or other materials forming a part of such street, alley, or public grounds without first having obtained written permission to do so from the Village Board. (Neb. Rev. Stat. §17-557)

#### **SECTION 6-104: OBSTRUCTIONS**

A. It shall be unlawful for any person, persons, firm or corporation to obstruct or encumber by fences, gates, buildings, structures or otherwise any of the streets, alleys or sidewalks.

B. Trees and shrubs growing upon the lot line partially on public ground and partially upon the abutting property or wholly upon the abutting property but so close to the lot line as to interfere with the use or construction of any public improvement or so that the roots thereof interfere with any utility wires or pipe shall be deemed obstructions. It shall be the duty of owners and occupants to keep all such similar growth trimmed and pruned at all times.

C. Whenever any such growth is allowed contrary to the provisions of this section, the Village Board may pass a resolution ordering the owner or occupant to remove such obstruction within five days after having been served with a copy of said

resolution stating that the village will do so and will charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided or shall collect the same by civil suit brought in the name of the village against the said owner or occupant.

D. Said growth may be removed by the village at the expense of the owner of the property upon which the tree or shrub is located should the owner fail or neglect, after notice, to do so. In the event the property owner is a nonresident of the county in which the property lies, the village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-555, 17-557.01)

### **SECTION 6-105: OVERHANGING BRANCHES**

A. The owner or occupant of any lot, piece or parcel of ground abutting or adjacent to any street or sidewalk over which the branches of trees extend shall at all times keep the branches or limbs thereof trimmed to a height of at least 8 feet above the surface of said walk and at least 12 feet above the surface of said street.

B. Whenever the limbs or branches of any tree or trees extend over streets or sidewalks contrary to the provisions herein so as to interfere with the lighting of the street from street lights or with the convenience of the public using said street or sidewalk, the Village Board at any regular or special meeting may pass a resolution ordering the owner or occupant to cut or remove said obstructions within five days after having received a copy thereof stating that the village will remove said branches and charge the costs to the owner or occupant as a special assessment for improvements as herein provided if said resolution is not complied with.

C. In the event the property owner is a nonresident of the county in which the property lies, the village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-557.01)

### **SECTION 6-106: CONSTRUCTION MATERIALS; PERMIT REQUIRED**

Persons engaged in the erection, construction, reconstruction, wrecking, or repairing of any building or the construction or repair of a sidewalk along any street may occupy the public street space with such building material and equipment as long as is necessary if such persons shall make application to and receive a permit in writing from the street commissioner to do so; provided, no permit for the occupancy of the sidewalk space and more than one-third of the roadway of the public space adjacent

to the real estate on which said building is to be constructed, erected, reconstructed, wrecked, or repaired shall be granted; and provided further, a suitable passageway for pedestrians shall be maintained within the public space included in the permit which shall be protected and lighted in the manner required by the street commissioner.

#### **SECTION 6-107: BARRICADES AND LIGHTS**

Whenever any excavation on any public property, including without limitation parking sites, sidewalks, curbs and streets, occurs within the zoning jurisdiction of the village, the party responsible for the excavation shall provide adequate barricades around the excavation and shall install sufficient warning lights and signs around the excavation to protect the public. (Neb. Rev. Stat. §17-505)

#### **SECTION 6-108: EAVE AND GUTTER SPOUTS**

It is hereby declared unlawful for any person to erect or maintain any dwelling house or business building within the limits of the village where the said dwelling or building abuts on any sidewalk or street without providing proper guttering and eave spouts to receive the wastewaters that collect on the said sidewalks and streets. All eave spouts erected on any dwelling house or business building shall be constructed to drain into the alleys or shall be buried beneath the sidewalks and drain into the streets where it is found to be impossible to drain said eave spouts into the alley.

#### **SECTION 6-109: DAMAGE**

It shall be unlawful for any person to willfully, maliciously, or carelessly injure, change, deface, or destroy any street, sidewalk, building, ditch, drain, or grade within the corporate limits. No person shall cause or permit any offensive or corrosive material to be discharged or thrown out upon any street, sidewalk, alley, or public ground.

#### **SECTION 6-110: CUTTING CURB; PERMIT, DEPOSIT AND BOND**

A. It shall be unlawful for any person to cut into any paving, curb, or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained a written permit from the Village Board therefor. It shall also be unlawful for any person to construct a driveway where no curb cutting is required without having first obtained a permit. The procedure for obtaining a driveway construction permit is provided in Section 9-201 (Application for Building Permit).

B. Upon approval by the Village Board, the applicant shall be required to build said driveway and complete said curb cut to the village's specifications, including size and type of materials. When the applicant is ready to close the opening made, he or she shall inform the street commissioner, who shall supervise and inspect the materials used and work done in closing the opening.

C. Before any permit is issued by the Village Board, the applicant for such permit shall deposit with the village treasurer a sum set by resolution of the board for all paving, curb or sidewalk to be cut. Such sum shall be set on a per-square-foot cost of construction basis. The deposit shall be retained by the village for the purpose of replacing the paving, curb, or sidewalk in the event the work is done by the village. In the event the village elects to require the applicant to replace the paving, curb, or sidewalk, the deposit shall be retained by the village until the work is completed to the satisfaction of the street commissioner or of the committee of the Village Board on streets and alleys.

D. In addition to making the deposit above set forth, the applicant shall, before any permit is issued, execute a bond to the village with a good and sufficient surety or sureties to be approved by the Village Board in a sum set by resolution.  
(Neb. Rev. Stat §17-567)

### **SECTION 6-111: HEAVY EQUIPMENT**

A. It shall hereafter be unlawful for any person or persons to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk or crossing on any unpaved street without first having protected such structure with heavy plank sufficient in strength to warrant against the breakage or damage of the same. Hereafter, it shall be unlawful to drive, move, operate or convey over or across any paved street a vehicle, machine or implement with sharp discs or sharp wheels that bear upon said pavement; with wheels having cutting edges; or with wheels having lugs, protruding parts or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent or otherwise injure or damage any pavement, gutter or curb.

B. Where heavy vehicles, structures, and machines move along paved or unpaved streets, the Village Board is hereby authorized and empowered to choose the route over which such moving will be permitted and allowed.

C. It shall be permissible (1) for school buses and emergency vehicles to use metal or metal-type studs any time of the year; (2) to use farm machinery with tires having protuberances which will not damage the streets; and (3) to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to slide or skid.  
(Neb. Rev. Stat. §60-6,250)

### **SECTION 6-112: REAL PROPERTY; ACQUISITION; AUTHORIZATION**

When acquiring an interest in real property by purchase or eminent domain, the village shall do so only after the Village Board has authorized the acquisition by action taken in a public meeting after notice and public hearing. (Neb. Rev. Stat. §18-1755)

### **SECTION 6-113: REAL PROPERTY; ACQUISITION; APPRAISAL**

The village shall not purchase, lease-purchase or acquire for consideration real prop-



erty having an estimated value of \$100,000.00 or more unless an appraisal of such property has been performed by a certified real estate appraiser. (Neb. Rev. Stat. §13-403)

#### **SECTION 6-114: REAL PROPERTY; ACQUISITION; CONSTRUCTION; ELECTIONS, WHEN REQUIRED**

A. The village is authorized and empowered to purchase, accept by gift or devise, purchase real estate upon which to erect, and erect a building or buildings for an auditorium, fire station, village building, or community house for housing village enterprises and social and recreation purposes, and other public buildings and maintain, manage, and operate the same for the benefit of the inhabitants of the village.

B. Except as provided below, before any such purchase can be made or building erected, the question shall be submitted to the electors of the village at a general election or at an election duly called for that purpose, or as set forth in Neb. Rev. Stat. §17-954, and be adopted by a majority of the electors voting on such question.

C. If the funds to be used to finance the purchase or construction of a building pursuant to this section are available other than through a bond issue, then either:

1. Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the village and no election shall be required to approve the purchase or construction unless within 30 days after the publication of the notice a remonstrance against the purchase or construction is signed by electors of the village equal in number to 15% of the registered voters of the village voting at the last regular village election held therein and is filed with the Village Board. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be considered timely if filed or postmarked on or before the next business day. If a remonstrance with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the village at a general village election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then nor within one year following the election be purchased or constructed; or
2. The Village Board may proceed without providing the notice and right of remonstrance required in subdivision (1) of this subsection if the property can be purchased below the fair market value as determined by an appraisal, there is a willing seller, and the purchase price is less than \$25,000.00. The purchase shall be approved by the board after notice and public hearing as provided in section Neb. Rev. Stat §16-1755.

(Neb. Rev. Stat. §17-953, 17-953.01)

**SECTION 6-115: REAL PROPERTY; SALE AND CONVEYANCE**

A. Except as provided this section, the power of the village to convey any real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution, directing the sale at public auction or by sealed bid of such real property and the manner and terms thereof, except that such real property shall not be sold at public auction or by sealed bid when:

1. Such property is being sold in compliance with the requirements of federal or state grants or programs;
2. Such property is being conveyed to another public agency; or
3. Such property consists of streets and alleys.

B. The Village Board may establish a minimum price for such real and personal property at which bidding shall begin or shall serve as a minimum for a sealed bid.

C. After the passage of the resolution directing the sale, notice of all proposed sales of real property described above and the terms thereof shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in the village.

D. If within 30 days after the third publication of the notice a remonstrance against such sale is signed by registered voters of the village equal in number to 30% of the registered voters of the village voting at the last regular municipal election held therein and is filed with the Village Board, such property shall not then nor within one year thereafter be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the 30-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day.

E. Upon the receipt of the remonstrance, the Village Board, with the aid and assistance of the election commissioner, shall determine the validity and sufficiency of signatures on the remonstrance. The board shall deliver the remonstrance to the election commissioner by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Upon receipt of the remonstrance, the election commissioner shall issue to the Village Board a written receipt that the remonstrance is in his or her custody. The election commissioner shall compare the signature of each person signing the remonstrance with the voter registration records to determine if each signer was a registered voter on or before the date on which the remonstrance was filed with the Village Board. The election commissioner shall also compare the signer's printed name, street and number or voting precinct, and municipal or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the election commissioner determines that the printed name, street and number or voting precinct, and municipal or post office address matches the registration records and

that the registration was received on or before the date on which the remonstrance was filed with the Village Board. The determinations of the election commissioner may be rebutted by any credible evidence which the board finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the remonstrance, the sufficiency of the remonstrance, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the remonstrance process.

F. Upon completion of the comparison of names and addresses with the voter registration records, the election commissioner shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the non-registration of the signer, the election commissioner shall set forth the reason for the invalidity of the signature. If the election commissioner determines that a signer has affixed his or her signature more than once to the remonstrance and that only one person is registered by that name, the election commissioner shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature.

G. The election commissioner shall certify to the Village Board the number of valid signatures necessary to constitute a valid remonstrance. He or she shall deliver the remonstrance and the certifications to the board within 40 days after the receipt of the remonstrance from the board. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Not more than 20 signatures on one signature page shall be counted. The Village Board shall, within 30 days after the receipt of the remonstrance and certifications from the election commissioner, hold a public hearing to review the remonstrance and certifications and receive testimony regarding them. The board shall, following the hearing, vote on whether or not the remonstrance is valid and shall uphold the remonstrance if sufficient valid signatures have been received.

H. Real estate now owned or hereafter owned by the village may be conveyed without consideration to the State of Nebraska for state armory sites or, if acquired for state armory sites, such property shall be conveyed strictly in accordance with the conditions of Neb. Rev. Stat. §16-1001 to 16-1006.

I. Following passage of the resolution directing a sale, publishing of the notice of the proposed sale, and passing of the 30-day right of remonstrance period, the property shall then be sold. Such sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale. The village clerk shall, upon passage of such ordinance, certify the name of the purchaser to the register of deeds of the county in which the property is located.

J. Subsections (A) to (I) of this section shall not apply to the sale of real and personal property if the authorizing resolution directs the sale of an item or items of

real and personal property having a total fair market value of less than \$5,000.00. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the village for a period of not less than seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required. (Neb. Rev. Stat. §17-503, 17-503.01)

#### **SECTION 6-116: PERSONAL PROPERTY; SALE AND CONVEYANCE**

In order to sell personal property owned by the village, the Village Board shall adopt a resolution directing the sale and the manner and terms of the sale. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the village for a period of not less than seven days prior to the sale of the property. If the fair market value of the property is greater than \$5,000.00, notice of the sale shall also be published once in a legal newspaper in or of general circulation in such village at least seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. When such personal property is being sold in compliance with the requirements of federal or state grants or programs or conveyed to another public agency, the notice procedure set forth above may be dispensed with. (Neb. Rev. Stat. §17-503.02)

#### **SECTION 6-117: SPECIAL IMPROVEMENT DISTRICT; ASSESSMENT AND CREATION PROCEDURE**

The Village Board may by ordinance create a special improvement district for the purpose of replacing, reconstructing, or repairing an existing water line, sewer line, or any other such improvement. Except as provided in Neb. Rev. Stat §19-2428 to 19-2431, the board shall have power to assess, to the extent of such benefits, the costs of such improvements upon the properties found especially benefited thereby, whether or not such properties were previously assessed for the same general purpose. In creating such special improvement district, the Village Board shall follow procedures applicable to the creation and assessment of the same type of improvement district as otherwise provided by law. (Neb. Rev. Stat. §18-1751)

#### **SECTION 6-118: SPECIAL ASSESSMENTS; LAND ADJACENT; DEFERRAL**

A. Whenever the Village Board creates an improvement district which includes land adjacent to the village that is within an agricultural use zone and is used exclusively for agricultural use, the owners of record title of such adjacent land may apply for a deferral from special assessments. For purposes of this section, the terms “agricultural use” and “agricultural use zone” shall have the meaning specified in Neb. Rev. Stat. §77-1343.

B. Any owner of record title eligible for the deferral granted by this section shall, to secure such assessment, make application to the Village Board within 90

days after creation of an improvement district as specified herein. Any owner of record title who makes application for the deferral provided by this section shall notify the register of deeds of such application in writing prior to approval by the Village Board. The board shall approve the application of any owner of record title upon determination that the property is within an agricultural use zone and is used exclusively for agricultural use and the owner has met the requirements of this section.

C. The deferral provided for in this section shall be terminated upon any of the following events:

1. Notification by the owner of record title to the Village Board to remove such deferral;
2. Sale or transfer to a new owner who does not make a new application within 60 days of the sale or transfer, except as provided in subdivision (3) of this subsection.
3. Transfer by reason of death of a former owner to a new owner who does not make application within 125 days of the transfer;
4. The land is no longer being used as agricultural land; or
5. Change of zoning to other than an agricultural zone.

D. Whenever property which has received a deferral pursuant to this section becomes disqualified for such deferral, the owner of record title of such property shall pay to the village an amount equal to the total amount of special assessments which would have been assessed against such property, to the extent of special benefits, had such deferral not been granted. Interest upon the special assessments not paid each year at the rate of 6% from the dates at which such assessments would have been payable if no deferral had been granted.

E. In cases where the deferral provided by this section is terminated as a result of a sale or transfer described in subdivision (D)(2) or (3), the lien for assessments and interest shall attach as of the day preceding such sale or transfer.  
(Neb. Rev. Stat. §19-2428 thru 19-2431)

## **Article 2 – Streets**

### **SECTION 6-201: NAMES AND NUMBERS**

The Village Board may at any time by ordinance rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along such streets shall retain such numbers as the board may require. It shall be the duty of the street commissioner, upon the erection of any new building, to assign the proper numbers to said building and give notice to the owner(s) and occupant(s) of the same.

### **SECTION 6-202: WIDENING OR OPENING**

The Village Board shall have the power to open or widen any street, alley, or lane within the limits of the village; to create, open, and improve any new street, alley, or lane; provided, all damages sustained shall be ascertained in such manner as shall be provided by ordinance. (Neb. Rev. Stat. §17-558, 17-559, 76-704 thru 76-724)

### **SECTION 6-203: CROSSINGS**

The Village Board may order and cause street, avenue and alley crossings to be constructed under the supervision of the street commissioner and the same shall be constructed of such materials as the board shall deem necessary. When a petition for the construction of any such crossing is filed by an interested resident in the office of the village clerk, he or she shall refer such application to the street commissioner, who shall investigate and recommend to the board allowance or rejection as final action by the board on such application.

### **SECTION 6-204: EXCAVATION**

It shall be unlawful for any person to make an excavation in any street for any purpose whatsoever unless a written permit is issued by the street commissioner, authorizing such excavations. (Neb. Rev. Stat. §17-567)

### **SECTION 6-205: DRIVING STAKES**

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without authorization from the street commissioner. (Neb. Rev. Stat. §17-567)

### **SECTION 6-206: MIXING CONCRETE**

It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever. (Neb. Rev. Stat. §17-567)



**SECTION 6-207: HARMFUL LIQUIDS**

It shall be unlawful for any person to place or permit to leak in the gutter of any street any waste gasoline, kerosene, or high lubricating oils, which damage or act as a solvent upon said streets. (Neb. Rev. Stat. §17-567)

**SECTION 6-208: UTILITY POLES, WIRES, MAINS**

A. Poles, wires, gas mains, pipe lines and other appurtenances of public service companies shall be located or erected over, upon or under the streets, alleys and common grounds after a proper written application shall have been made to the village clerk and permission in writing shall have been given by the Village Board. When requested by the board, public service companies heretofore or hereafter granted right of way for the erection and maintenance of appurtenances for the purpose of transacting their business upon, under or over the streets, alleys and public grounds shall at all times erect, locate or relocate their said appurtenances to such places and in such manner as shall be designated by said board.

B. Such poles, wires, gas mains, pipe lines and other appurtenances shall be removed or relocated by said companies at their own expense when requested to do so by the Village Board. Whenever it becomes necessary for the board to request such relocation for public safety and convenience, it shall order said relocation by resolution and the village clerk shall notify any company or companies affected. Said companies shall, within 24 hours after receiving notice, at their own expense, cause the said appurtenances to be removed or relocated. The Village Board shall designate another location where said appurtenances may be reset or placed. All appurtenances shall be reset, placed or erected in such manner that they will not interfere with the water system, sewer system or poles, wires or mains of any public utility located on the same street or alley or with travel or buildings constructed or hereafter to be constructed. Whenever possible, all said appurtenances shall be confined to the alleys of the village.

**SECTION 6-209: DRIVEWAY APPROACHES**

The street commissioner may require the owner of property served by a driveway approach constructed or maintained upon the street right of way to repair or replace any such driveway approach which is cracked, broken, or otherwise deteriorated to the extent that it is causing or is likely to cause damage to or interfere with any street structure including pavement or sidewalks. The village clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of such owner or the agent of such owner, directing the repair or replacement of such driveway approach. If within 30 days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the street commissioner may cause such work to be done and assess the cost upon the property served by such approach. (Neb. Rev. Stat. §16-1748)

**SECTION 6-210: POWER TO IMPROVE**

The Village Board may grade, partially or to an established grade, change grade, curb, recurb, gutter, regutter, pave, gravel, regravels, macadamize, remacadamize, widen or narrow streets or roadways, resurface or relay existing pavement, or otherwise improve any streets, alleys, public grounds, public ways, entirely or partially, and streets which divide the village corporate area and the area adjoining the village; construct or reconstruct pedestrian walks, plazas, malls, landscaping, outdoor sprinkler systems, fountains, decorative water ponds, lighting systems, and permanent facilities; and construct sidewalks and improve the sidewalk space. These projects may be funded at public cost or by the levy of special assessments on the property especially benefited in proportion to such benefits, except as provided in Neb. Rev. Stat. §19-2428 to 19-2431. (Neb. Rev. Stat. §17-509)

**SECTION 6-211: IMPROVEMENT DISTRICTS; SPECIAL ASSESSMENTS**

The Village Board may by ordinance create paving, repaving, grading, curbing, re-curb, resurfacing, graveling, or improvement districts, to be consecutively numbered, which may include two or more connecting or intersecting streets, alleys, or public ways, and may include two or more of the improvements in one proceeding. All of the improvements which are to be funded by a levy of special assessment on the property especially benefited shall be ordered as provided in Sections 6-213 to 6-215, unless the board improves a street which divides the village corporate area and the area adjoining the village as provided in Section 6-212. (Neb. Rev. Stat. §17-509)

**SECTION 6-212: IMPROVEMENT OF STREETS ON CORPORATE LIMITS**

Whenever the Village Board improves any street which divides the village corporate area and the area adjoining the village, the board shall determine the sufficiency of petition as set forth in Section 6-213 by the owners of the record title representing more than 60% of the front footage of the property directly abutting upon the street to be improved, rather than 60% of the resident owners. Whenever the board shall deem it necessary to make any of the improvements allowed by statute on a street which divides the village corporate area and the area adjoining the village, the Village Board shall by ordinance create the improvement district pursuant to Section 6-214 and the right of remonstrance shall be limited to owners of record title, rather than resident owners. (Neb. Rev. Stat. §17-509)

**SECTION 6-213: PETITION FOR IMPROVEMENTS**

Whenever a petition signed by the owners of record title representing more than 60% per cent of the front footage of the property directly abutting upon the street, streets, alley, alleys, public way, or the public grounds proposed to be improved shall be presented and filed with the village clerk, petitioning therefor, the Village Board shall by ordinance create a paving, graveling, or other improvement district or districts and shall cause such work to be done or such improvement to be made. The board shall contract therefor and shall levy assessments on the lots and parcels of land abutting

on or adjacent to such street, streets, alley, or alleys, especially benefited thereby in such district in proportion to such benefits, except as provided in Neb. Rev. Stat. §19-2428 to 19-2431, to pay the cost of such improvement. The board shall have the discretion to deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the board should deny a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties. (Neb. Rev. Stat. §17-510)

#### **SECTION 6-214: IMPROVEMENT DISTRICTS; OBJECTIONS**

A. Whenever the Village Board deems it necessary to make any improvements allowed by statute which are to be funded by a levy of special assessment on the property especially benefited, the board shall by ordinance create a paving, graveling, or other improvement district and, after the passage, approval, and publication or posting of such ordinance, shall publish notice of the creation of any such district for six days in a legal newspaper of the village, if a daily newspaper, or for two consecutive weeks if a weekly newspaper. If no legal newspaper is published in the village, the publication shall be in a legal newspaper of general circulation in the village.

B. If the owners of the record title representing more than 50% of the front footage of the property directly abutting on the street or alley to be improved file with the village clerk within 20 days after the first publication of such notice written objections to the creation of such district, such improvement shall not be made as provided in such ordinance but the ordinance shall be repealed. If objections are not filed against the district in the time and manner prescribed in this section, the Village Board shall immediately cause such work to be done or such improvement to be made, shall contract for the work or improvement, and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street or alley especially benefited in such district in proportion to such benefits to pay the cost of such improvement.

(Neb. Rev. Stat. §17-511)

#### **SECTION 6-215: IMPROVEMENT OF MAIN THOROUGHFARES**

The Board of Trustees shall have power by a three-fourths vote to enact an ordinance creating a paving, graveling or other improvement district and to order such work to be done without petition upon any federal or state highways in the village or upon a street or route designated by the board as a main thoroughfare, connecting to either a federal or state highway or a county road. The board shall contract therefor and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street, alley or alleys especially benefited thereby in such district in proportion to such benefits to pay the cost of such improvement. (Neb. Rev. Stat. §17-512)

#### **SECTION 6-216: CONSTRUCTION ASSESSMENT**

A. To defray the costs and expenses of street improvements as may be authorized by law, the Village Board shall have power and authority to levy and collect

special taxes and assessments upon the lots and pieces of ground adjacent to, abutting upon, or especially benefiting from the street, avenue, alley, or sidewalk in whole or in part opened, widened, curbed, curbed and guttered, graded, paved, repaired, graveled, macadamized, parked, extended, constructed, or otherwise improved or repaired. The Village Board sitting as the Board of Equalization shall review all such improvements in accordance with the procedure provided by law.

B. All special assessments shall be made by the Village Board at a regular or special meeting by resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements and the amount charged against same. The vote shall be recorded in the minutes. Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in a legal newspaper published or of general circulation in the village at least four weeks before the same shall be held. In lieu of such aforementioned notice, personal service may be had upon the persons owning or occupying the property to be assessed.

C. Every such assessment shall be known as a "special assessment for improvements" and with the cost of notice shall be levied and collected as a special tax in addition to the taxes for general revenue purposes, subject to the same penalties and collected in like manner as other village taxes. Such assessment shall be certified to the county clerk by the village clerk forthwith after the date of levy for collection by the county treasurer unless otherwise specified. After it shall have become delinquent, said assessment shall draw interest at the legal interest rate per annum.

D. In the event the property owner is a nonresident of the county in which the property lies, the village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-511, 17-524, 19-2428 through 19-2431, 45-104.01)

## **SECTION 6-217: CONSTRUCTION NOTICE**

The chief street official shall notify the owners in fee simple of real estate abutting a street, alley, or a part thereof which is to be put under contract for paving or repaving. Notice shall also be given to all gas, electric service, and telephone companies. Notice shall also be given to all consumers of gas, water, and sewer services which will be discontinued during such construction. Said notice shall be published one time in a legal newspaper at least 20 days prior to the beginning of such construction by the party undertaking such construction and said notice shall state at what date connections must be made and excavation completed. All gas, water, sewer, and underground connections must be made prior to the paving or repaving of the street under construction. After expiration of such time, permits for excavation will not be issued, nor will excavation be allowed, until after the completion of the pavement in said street or alley, and the formal final acceptance thereof by the proper officials of the

village.

## **SECTION 6-218: VACATING PUBLIC WAYS; PROCEDURE**

Whenever the Village Board decides that it would be in the best interests of the village to vacate a street, avenue, alley, lane, or similar public way, the board shall comply with the following procedure:

A. *Notice.* Notice shall be given to all abutting property owners either by first class mail to their last known address or, if there is no known address, then by publishing the notice in a newspaper that is of general circulation in the village. The content of the notice shall advise the abutting property owners that the Village Board will consider vacating such street, avenue, alley, lane, or similar public way at its next regular meeting or, if a special meeting is scheduled for such discussion, then the date, time, and place of such meeting.

B. *Consent/Waiver.* The Village Board may have all the abutting property owners sign a form stating that they consent to the action being taken by the board and waive their right of access. The signing of such form shall have no effect on claims for special damages by the abutting property owners but shall create the presumption that the board's action was proper. If the abutting property owners do not sign the consent/waiver form, the Village Board may still proceed with vacating the street, avenue, alley, lane, or similar public way under the authority granted by Neb. Rev. Stat. §17-558 and 17-559.

C. *Ordinance.* The Village Board shall pass an ordinance that includes essentially the following provisions:

1. A declaration that the action is expedient for the public good or in the best interests of the village.
2. A statement that the village will have an easement for maintaining all utilities.
3. A method or procedure for ascertaining special damages to abutting property owners.

D. The clerk shall file a copy of the ordinance with the county register of deeds to ensure that abutting property owners can gain title to their share of the vacated street, avenue, alley, lane, or similar public way, and so that such land will be drawn to the attention of the county assessor.

(Neb. Rev. Stat §17-558, 17-559)

## **SECTION 6-219: VACATING PUBLIC WAYS; DEFINITIONS; ASCERTAINING DAMAGES**

A. In reference to vacating of public ways, "special damages" shall mean only those losses, damages or injuries which a property owner suffers that are peculiar, special or unique to his or her property and which result from the vacating of such

street, avenue, alley, lane or similar public way by the Village Board.

B. "Special damages" shall not mean those losses, damages or injuries suffered by a property owner that are in common with the rest of the village or public at large, even though those losses, damages or injuries suffered by the property owner are greater in degree than the rest of the village or public at large.

C. The chairman, with approval of the Village Board, shall appoint three, five or seven disinterested residents of the village to a special commission to ascertain the amount of special damages that the abutting property owners are entitled to receive and which resulted from the vacating of such street, avenue, alley, lane or similar public way. Only special damages, as herein defined, shall be awarded to the abutting property owners.

D. In determining the amount of compensation to award the abutting property owners as special damages, the aforementioned commission shall use the following rule:

*The abutting property owner is entitled to recover as compensation the difference between the value of such property immediately before and immediately after the vacating of such street, avenue, alley, lane or similar public way. However, if no difference in value exists, the abutting property owner is entitled to no compensation.*

(Neb. Rev. Stat. §17-558, 17-559)

## **SECTION 6-220: VACATING PUBLIC WAYS; TITLE**

A. Upon the vacation of any street or alley or any part thereof by the village, the title of such property shall vest in the owner of the abutting property and become part of such property, one-half on each side thereof, except that the village may reserve title to such property in the ordinance vacating such street or alley. If title is retained by the village, such property may be sold, conveyed, exchanged or leased upon such terms and conditions as shall be deemed in the best interest of the village.

B. In the event the village does not elect to reserve title in the vacated portion of such street or alley, the title to said property nonetheless shall be subject to the following:

1. There is reserved to the village the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated there; and
2. There is reserved to the village, any public utilities, and any cable television systems the right to maintain, repair, renew, and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, above, on or below



the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times.

(Neb. Rev. Stat. §17-558)

## **Article 3 – Sidewalks**

### **SECTION 6-301: DUTY TO KEEP CLEAN**

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud, or other substance to remain upon said sidewalk. All sidewalks within the business district shall be cleaned within five hours after the cessation of a storm unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 8:30 a.m. the following day. Sidewalks within the residential areas of the village shall be cleaned within 24 hours after the cessation of the storm. (Neb. Rev. Stat. §17-557)

### **SECTION 6-302: MAINTENANCE AND REPAIR**

A. Every owner of any lot, lots or piece of land within the corporate limits shall at all times keep and maintain the sidewalk along and contiguous to said parcels of land in good and proper repair and in a condition reasonably safe for travel for all travelers thereon.

B. The village official in charge of sidewalks may require sidewalks of the village to be repaired. Notice to the owners of property upon which such sidewalks in disrepair are located shall require within 48 hours from issuance of notice said owners to make arrangements to have the sidewalk repaired. Said repairs shall be completed within 21 days after issuance of said notice.

C. In the event that the owner or owners of any lot, lots, or lands abutting on any street, avenue, or part thereof shall fail to construct or repair any sidewalk in front of his, her or their lot, lots, or lands within the time and in the manner as directed and required herein after having received due notice to do so, he, she or they shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk and the Village Board shall have power to cause any such sidewalks to be constructed or repaired and assess the costs thereof against such property.

D. In the event the property owner is a nonresident of the county in which the property lies, the village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.  
(Neb. Rev. Stat. §17-557.01)

### **SECTION 6-303: CONSTRUCTION BY OWNER; APPLICATION, PERMIT**

A. Any person desiring to construct or cause to be constructed any sidewalk

shall do so only as herein provided. It shall be unlawful for any person to construct any sidewalk without first having obtained a permit.

B. Said owner shall make application in writing for a permit and file such application in the office of the village clerk. The permit shall give a description of the lot or piece of land along which the sidewalk is to be constructed. The street commissioner shall issue the desired permit unless good cause shall appear why said permit should be denied; provided, if it is desired to construct the sidewalk at any other than the regularly prescribed location, grade, elevation and thickness, the street commissioner shall submit the application to the Village Board, which shall determine whether the permit should be granted or denied.

#### **SECTION 6-304: CONSTRUCTION BY VILLAGE**

A. The Village Board may by resolution order the construction of a sidewalk on any lot or piece of ground within the village. Notice of the board's intention to construct said sidewalk shall be given by the village clerk by publication of notice one time in a legal newspaper of general circulation in the village.

B. A copy of said notice shall be personally served upon the occupant in possession of such property or, when personal service is not possible, said notice shall be posted upon such premises ten days prior to the commencement of construction. The notice required in this section shall be prepared by the village attorney in accordance with the provisions of this section. Such service shall include a form of return evidencing personal service or posting as herein required.

C. Said notice shall notify the owner of the premises of the passage of the resolution ordering him or her to construct or cause to be constructed a sidewalk within 30 days after the date of publication and further, that if he or she fails to construct the sidewalk or cause the same to be done within the time allowed, the village will cause the sidewalk to be constructed and the cost thereof shall be levied and assessed as a special tax against the premises; provided, the notice shall contain the official estimate of the cost of said construction and no special assessment in excess of this estimate shall be assessed against the property.

D. In the event the property owner is a nonresident of the county in which the property lies, the village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-522, 17-523)

#### **SECTION 6-305: CONSTRUCTION BY PETITION**

A. If the owners of record title representing more than 60% of the front footage of the directly abutting property subject to assessment for sidewalk improvements pe-

tition the Village Board to make the same, the board shall proceed in all things as though such construction had been ordered by it. The total cost of such improvement shall be levied, allocated, financed and specially assessed as provided by law.

B. In the event the property owner is a nonresident of the county in which the property lies, the Village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-510)

## **Article 4 – Construction of Private Drives**

### **SECTION 6-401: APPLICATION**

Before any person, firm or corporation constructs a private drive onto any public street or alley, an application shall first be made to the Village Board for a permit for such construction as provided in Section 9-201 (Application for Building Permit).

### **SECTION 6-402: SPECIFICATIONS**

Private drives shall not exceed 24 feet in width and shall not be constructed within 10 feet of adjacent lot lines unless such adjacent lots are owned by the applicant. Drive-way installation shall not interfere with or damage any village property or streets.

## **Article 5 – Penal Provision**

### **SECTION 6-501: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of an offense and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

## **CHAPTER 7 – PUBLIC UTILITIES**

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## **CHAPTER 7 – PUBLIC UTILITIES**

### **Article 1 – Utilities Generally**

#### **SECTION 7-101: VILLAGE POWERS; RATE SETTING**

The village currently owns and operates a water supply and distribution system and a sanitary sewer disposal and treatment system. The village has the right and power to tax assets and collect from its residents such tax, rent or rates for the use and benefit of the water used or supplied to them by the water system. The Village Board is authorized to establish by ordinance such rates for water and sewer service as may be deemed fair and reasonable. All such rates, taxes or rent shall be a lien upon the premises or real estate for which the same is used or supplied and such taxes, rents or rates shall be paid and collected and such lien enforced in such manner as the board shall by ordinance direct and provide. All such rates, taxes or rent shall be on file in the office of the village clerk for public inspection. (Neb. Rev. Stat. §17-538)

#### **SECTION 7-102: BILLING AND COLLECTIONS**

A. Each utility bill shall be a joint bill for sewer and trash collection services and shall be due and payable at the office of the village clerk every two months. Water shall be billed by the Rural Water District.

B. Bills shall be due on the first day of every two months and shall be payable by the 10th of the billing month. Bills paid after the 10th day of the billing month shall have a penalty charge added thereto in an amount set by resolution of the Village Board and on file at the office of the village clerk.

C. Bills not paid by the 20th of each billing month shall be deemed to be delinquent and a late fee shall be assessed as set by ordinance and placed on file at the village office. Upon being deemed to be delinquent as herein defined, the village clerk shall give a written notice to the customer of such delinquency and shall demand payment immediately. In the event that the bill is not paid 60 days after becoming due, **the water service shall be cut off** in compliance with Section 7-103.

(Am. by Ord. No. 2014-07, 8/11/14)

#### **SECTION 7-103: DISCONTINUANCE OF SERVICE; NOTICE; PROCEDURE**

A. No village utility shall discontinue service to any domestic subscriber for nonpayment of any due account unless such utility shall first give written notice by mail to any subscriber whose service is proposed to be terminated at least seven days prior to termination, weekends and holidays excluded.

B. Prior to the discontinuance of service to any domestic subscriber by a village utility, the domestic subscriber upon request shall be provided a conference with the Board of Trustees. The board has established procedures to resolve utility bills

when a conference is requested by a domestic subscriber. Such procedures, three copies of which are on file in the office of the village clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part hereof as though set out in full. A copy of such procedures shall be furnished upon the request of any domestic subscriber. The Board of Trustees shall notify the domestic subscriber of the time, place, and date scheduled for such conference.

C. This section shall not apply to any disconnections or interruptions of services made necessary by the village for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.

(Neb. Rev. Stat. §70-1603, 70-1604)

### **SECTION 7-104: LIEN**

In addition to all other remedies, if a customer shall for any reason remain indebted to the village for utilities service furnished, such amount due, together with any rents and charges in arrears shall be considered a delinquent utility rent which is hereby declared to be a lien upon the real estate for which the same was furnished. The village clerk shall notify in writing or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of the utilities rent. It shall be the duty of the utilities superintendent on June 1 of each year to report to the Village Board a list of all unpaid accounts due for utilities service, together with a description of the premises served. The report shall be examined, and if approved by the board, shall be certified by the village clerk to the county clerk to be collected as a special tax in the manner provided by law. (Neb. Rev. Stat. §17-538, 17-925.01, 18-503)

### **SECTION 7-105: DIVERSION OF SERVICES; METER TAMPERING, UNAUTHORIZED RECONNECTION PROHIBITED; EVIDENCE**

A. Any person who connects any instrument, device, or contrivance with any pipe supplying water without the knowledge and consent of the village in such manner that any portion thereof may be supplied to any instrument by or at which the water may be consumed without passing through the meter provided for measuring or registering the amount or quantity passing through it, and any person who knowingly uses or knowingly permits the use of water obtained in the above-mentioned unauthorized ways, shall be deemed guilty of an offense.

B. Any person who willfully injures, alters, or by any instrument, device, or contrivance in any manner interferes with or obstructs the action or operation of any meter made or provided for measuring or registering the amount or water passing through it without the knowledge and consent of the village shall be deemed guilty of an offense.

C. When water service has been disconnected pursuant to Neb. Rev. Stat. §70-1601 to 70-1615 or Section 7-103 of this code, any person who reconnects such service without the knowledge and consent of the village shall be deemed guilty of an

offense.

D. Proof of the existence of any pipe connection or reconnection or of any injury, alteration, or obstruction of a meter as provided in this section shall be taken as prima facie evidence of the guilt of the person in possession of the premises where such connection, reconnection, injury, alteration, or obstruction is proved to exist. (Neb. Rev. Stat. §25-21,275 through 25-21, 278, 28-515.02)

## **SECTION 7-106: DIVERSION OF SERVICES; PENALTY**

A. The village may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets or attempts bypassing, tampering or unauthorized metering when such act results in damages to a village utility. The village may bring a civil action for damages pursuant to this section against any person receiving the benefit of utility service through means of bypassing, tampering or unauthorized metering.

B. In any civil action brought pursuant to this section, the village shall be entitled, upon proof of willful or intentional bypassing, tampering or unauthorized metering, to recover as damages:

1. The amount of actual damage or loss if such amount may be reasonably calculated; or
2. Liquidation damages of \$750.00 if the amount of actual damage or loss cannot be reasonably calculated.

C. In addition to damage or loss under subdivision (B) (1) or (2), the village may recover all reasonable expenses and costs incurred on account of the bypassing, tampering or unauthorized metering including but not limited to disconnection, reconnection, service calls, equipment, costs of the suit and reasonable attorney's fees in cases within the scope of Neb. Rev. Stat. §25-1801.

D. There shall be a rebuttable presumption that a tenant or occupant at any premises where bypassing, tampering or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering or unauthorized metering if the tenant or occupant (1) had access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering is proven to exist and (2) was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.

E. There shall be a rebuttable presumption that a customer at any premises where bypassing, tampering or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering or unauthorized metering if the customer controlled access to the part of the utility supply system on the premises where the bypassing, tampering or unauthorized metering was proven to exist.

F. The remedies provided by this section shall be deemed to be supplemental

and additional to powers conferred by existing laws, and the remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common law remedies.

(Neb. Rev. Stat. §25-21,276, 25-21,277)

## Article 2 – Water Department

### SECTION 7-201: OPERATION AND FUNDING

A. The village owns the Water Department, which shall be operated through Rural Water District No. 1. The Village Board, for the purpose of defraying the cost of the care, management, and maintenance of the Water Department, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the water fund and shall remain in the custody of the village treasurer.

B. The Rural Water District No. 1 shall have the direct management and control of the Water Department. The district shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department, subject to the supervision and review of the Village Board. The said board shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the village clerk for public inspection during office hours.  
(Neb. Rev. Stat. §17-531, 17-534, 19-1305)

### SECTION 7-202: DEFINITIONS

The following definitions shall be applied throughout this section. Where no definition is specified, the normal dictionary usage of the word shall apply.

"Main" is hereby defined to be any pipe other than a supply or service pipe that is used for the purpose of carrying water to and dispersing the same in the village.

"Separate premises" is hereby defined to be more than one consumer procuring water from the same service or supply pipe. The second premises may be a separate dwelling, apartment, building, or structure used for a separate business.

"Service pipe" is hereby defined to be any pipe extending from the shut-off, stop box, or curb cock at or near the lot line to and beyond the property line of the consumer to the location on the premises where the water is to be dispersed.

"Supply pipe" is hereby defined to be any pipe tapped into a main and extending from there to a point at or near the lot line of the consumer's premises where the shut-off, stop box, or curb cock is located.

### SECTION 7-203: MANDATORY HOOKUP; PRIVATE NON-VILLAGE WELLS

A. All persons whose property abuts a street or alley in which a commercial main now is or may hereafter be laid shall be required, upon notice by the Village Board, to hook up with the village water system. This requirement prohibits any new or additional private wells within the village limits. The village may furnish water to

persons within its corporate limits whose premises do not abut a street or alley in which a village commercial main is now or may hereafter be laid, with permission from the Village Board. (Neb. Rev. Stat. §17-539)

B. Each building hereafter erected shall be connected with the water system at the time of its erection. In the event any owner, occupant or lessee shall neglect, fail or refuse within a period of ten days after the notice has been given to do so by regular mail or by publication in a newspaper in or of general circulation in the village to make such connection, the Village Board shall have the power to cause the same to be done, to assess the cost thereof against the property and to collect the water bills in the manner provided for collection of other special taxes or assessments or to collect in the manner provided for the collection of water bills as provided herein.

C. Private wells previously constructed and operating prior to establishment of the village water system shall be permitted to operate, provided that such wells comply with other existing, applicable ordinances and do not violate applicable state laws or regulations promulgated by the Nebraska Department of Health.  
(Neb. Rev. Stat. §17-537)

#### **SECTION 7-204: SERVICE TO NONRESIDENTS**

The department shall not supply water service to any person outside the corporate limits without special permission from the Village Board; provided, the entire cost of laying mains, service pipe, and supply pipe shall be paid by the consumer. Nothing herein shall be construed to obligate the village to provide water service to nonresidents. (Neb. Rev. Stat. §17-537, 19-2701)

#### **SECTION 7-205: CONSUMER'S APPLICATION; SERVICE DEPOSIT**

A. Every person or persons desiring a supply of water must make application therefor to the village clerk, who may require any applicant to make a service deposit in such amount as set by resolution by the Village Board and placed on file at the village office. (Previously highlighted) The said deposit shall be credited back to the consumer's account over two monthly billing cycles, provided that the account must have been in good standing for a period of 12 months. The application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the village clerk. Water shall not be supplied to any house or private service pipe except upon the order of the water operator.

B. If the property where water service is desired is a rental property, the owner of such property shall make the application. He or she shall sign the contract for water service for said property as provided in Section 7-206(B).  
(Neb. Rev. Stat. §17-537, 19-2701) (Am. by Ord. No. 2014-06, 8/11/14)

#### **SECTION 7-206: WATER CONTRACT; NOT TRANSFERABLE**

A. The rules, regulations, and water rates set forth in this chapter shall be con-



sidered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served.

B. The making of application on the part of any applicant for the use or consumption of water service by present customers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the village, to which said contract both parties are bound. The water service contract for any rental property shall be signed by the owner thereof. If the customer shall violate any of the provisions of said contract or any reasonable rules and regulations that the Village Board may hereafter adopt, the water operator or his agent may cut off or disconnect the water service from the building or premises of such violation. No further connection for water service to said building or premises shall again be made save or except by order of said operator or his agent.

C. Contracts for water service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall sell, dispose of, or move from the premises where service is furnished or if the said premises are destroyed by fire or other casualty, he or she shall at once inform the village clerk, who shall cause the water service to be shut off at the said premises. If the consumer should fail to give such notice, he or she shall be charged for water monthly until the water operator is otherwise advised of such circumstances.

(Neb. Rev. Stat. §17-537) (Am. by Ord. No. 2014-06, 8/11/14)

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#### **SECTION 7-207: PROHIBITION OF LEAD PIPES, SOLDER AND FLUX**

Any pipe, solders or flux used in the installation or repair of any residential or nonresidential building which is connected to the public water supply system shall be lead free. For purposes of this section, "lead free" shall mean (A) solders and flux, not more than .2% lead, and (B) pipe and pipe fittings, not more than 8% lead. (Neb. Rev. Stat. §71-5301)

#### **SECTION 7-208: WATER METERS REQUIRED; LAWFUL USE**

All municipal water use shall be metered as provided in this article. Municipal water shall not be utilized to irrigate crops or other agricultural products; provided, watering of gardens and lawns with municipal water shall be allowed.

#### **SECTION 7-209: INSTALLATION EXPENSE; TAP FEE**

The expense of providing water service to the lot line shall be paid by the village. The consumer shall pay a tap fee as set by resolution and placed on file at the village office. The customer will also pay the cost of installation and pipe from the lot line to the place of dispersement. The cost of the installation of the stop box and meter shall be paid by the consumer. The consumer shall be required to pay the expense of procuring the services of a plumber and shall pay the expense of furnishing and installing pipe, trenching, and the necessary labor to bring water service from said lot line to the place of dispersement. (Neb. Rev. Stat. §17-542)

#### **SECTION 7-210: REPAIRS AND MAINTENANCE**

A. The village shall repair or replace, as the case may be, all supply pipe between the commercial main and the stop box. The customer at his or her own expense shall replace and keep in repair all service pipe from the stop box to the place

of dispersement. When leaks occur in service pipes, the utilities superintendent shall shut off water service until the leak is repaired at the expense of the customer to the satisfaction of the superintendent.

B. All water meters shall be owned and kept in repair by the customer at his or her expense. When meters are worn out, the customer shall replace the meter with a meter purchased from the village. The meter provided to the customer shall be standardized to indicate the water usage by cubic feet and shall be accessible for remote read-out. Permitting a water meter to be damaged or destroyed by freezing shall always be considered negligence on the part of the customer.

C. All meters shall be tested at the customer's request at his or her expense any reasonable number of times; provided, if the test shows the water meter to be running 2% or more fast, the expense of such test shall be borne by the village, which reserves the right to test any water service meter at any time. If said meter is found to be beyond repair, the village shall always have the right to place a new meter on the customer's water service fixtures at village expense. Should a consumer's meter fail to register properly, the customer shall be charged for water during the time the meter is out of repair on the basis of the monthly consumption during the same month of the preceding year; provided, if no such basis for comparison exists, the customer shall be charged such amount as may be reasonably fixed by the utilities superintendent. It shall be unlawful for any person to tamper with any water meter or by any means or device to divert water from the service pipe so that the same shall not pass through said meter or, while passing through said meter, to cause the same to register inaccurately.

(Neb. Rev. Stat. §17-537)

## **SECTION 7-211: PLUMBERS**

Any plumber working on any of the pipes or appurtenances of the system of waterworks or to making any connection with or extension of the supply pipes of any consumer taking water from the said system shall comply with the requirements of the utilities superintendent. The said plumber's work shall be at all times subject to the inspection and approval of the superintendent, and it shall be unlawful to cover or conceal willfully any defective or unsatisfactory plumbing work. (Neb. Rev. Stat. §17-537)

## **SECTION 7-212: INSTALLATION OR REPAIR PROCEDURE**

A. In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe or making repairs, the paving and earth must be removed and deposited in a manner that will be least inconvenient to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade and, during the night, warning lights.

B. After service pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of 24 hours or more, the utilities superintendent shall have

the duty to finish or correct the work and all expenses so incurred shall be charged to the consumer.

C. All installations or repairs of pipes require two inspections by the utilities superintendent: (1) when connections or repairs are completed and before the pipes are covered and (2) after the dirt work is completed and the service is restored. It is the customer's responsibility to notify the superintendent at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications prescribed for such installation by the superintendent; provided, the said rules, regulations, and specifications have been reviewed and approved by the Village Board.

(Neb. Rev. Stat. §17-537, 71-5301)

## **SECTION 7-213: WATER RATES**

A. No water service shall be furnished to any customer at a rate that is different from other customers of the same class or type. Persons, firms, or corporations desiring to use water temporarily shall pay such rates as the Village Board shall set.

B. Without respect to schedule of rates for other customers, the Village Board may enter into special contracts with large customers of water but never at a rate less than the cost of production. The contract shall always provide that the said large consumer shall always pay the minimum rate as set for other customers and the contract shall be made on the basis of water consumed in excess of said minimum. A meter shall always be attached to the water service of such contract consumer and read monthly as in the case of other classes of water consumers.

C. Water service furnished to the other departments of the village and to other governmental subdivisions of the state shall be measured and billed for at such rates as the Village Board shall set from time to time without respect to the schedule of rates on file at the office of the village clerk, but never at rates that do not cover the cost of providing water.

D. Whenever water service is supplied to more than one customer through the same supply pipe, each customer shall pay the minimum water service charge each month. In the event that two or more customers are supplied through the same meter, the owner of the premises shall pay for all water consumed thereon plus separate minimums. One bill only shall be computed for each meter.

(Neb. Rev. Stat. §17-540) (Ord. No. 2008-07, 7/21/08)

E. The Village Board has the power and authority to fix the rates to be paid by the water consumers for the use of water from the water department. All such rates shall be on file for public inspection at the office of the village clerk. All water consumers shall be liable for the minimum rate provided by ordinance unless and until a consumer shall, by written order, direct the utilities superintendent to shut off the water at the stop box, in which case he or she shall not be liable thereafter for water rental until the water is turned on again. (Neb. Rev. Stat. §17-540, 17-542)

**SECTION 7-214: BILLING AND COLLECTIONS**

The village clerk shall bill the consumers and collect all money received by the village on the account of the Water Department and shall faithfully account for and pay to the village treasurer all revenue collected. Billing, collection and termination procedures are set forth in Sections 7-102 and 7-103. (Neb. Rev. Stat. §17-540)

**SECTION 7-215: RIGHT OF ENTRY FOR INSPECTION**

The utilities superintendent or his duly authorized agent shall have free access at any reasonable time to all parts of each premises and building to or in which water is delivered for the purpose of examining the pipes, fixtures, and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water. (Neb. Rev. Stat. §17-537)

**SECTION 7-216: SINGLE PREMISES**

No consumer shall supply water to other families or allow them to take water from his or her premises nor after water is supplied into a building shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premises for alteration, extension, or attachment without the written permission of the utilities superintendent. (Neb. Rev. Stat. §17-537)

**SECTION 7-217: DESTRUCTION OF PROPERTY**

It shall be unlawful for any person to willfully or carelessly break, injure, or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the Water Department. No person may deposit anything in a stop box or commit any act tending to obstruct or impair the intended use of any of the above-mentioned property without the written permission of the utilities superintendent.

**SECTION 7-218: FIRE HYDRANTS**

All hydrants for the purpose of extinguishing fires are hereby declared to be public hydrants and it shall be unlawful for any person other than members of the Fire Department under the orders of the fire chief or the assistant chief or employees of the Water Department to open or attempt to open any of the hydrants and draw water from the same or in any manner to interfere with the hydrants.

**SECTION 7-219: POLLUTION**

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Water Department. (Neb. Rev. Stat. §17-536)

**SECTION 7-220: RESTRICTED USE**

The Village Board or the utilities superintendent may order a reduction in the use of water or shut off the water on any premises in the event of a water shortage due to fire, drought or other good and sufficient cause. The village shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the village has no control. (Neb. Rev. Stat. §17-537)

**SECTION 7-221: BACKFLOW PREVENTION DEVICES; CUSTOMER INSTALLATION AND MAINTENANCE; TESTING**

A. A customer of the Water Department may be required by the utilities superintendent to install and maintain a properly located backflow prevention device at his or her expense appropriate to the potential hazards set forth in Title 179, Nebraska Department of Health, and approved by the utilities superintendent.

B. The customer shall make application to the utilities superintendent to install a required backflow prevention device on a form provided by the village. The application shall contain at a minimum the name and address of the applicant, the type of potential hazard protection required, and the type of backflow device to be installed including brand and model number. The utilities superintendent shall approve or disapprove the application based on his opinion of whether such installation will protect the village water distribution system from potential backflow and backsiphonage hazards.

C. The installation of the device shall be subject to all other sections of this code dealing with installation of plumbing, including the use of a plumber licensed by the village, if applicable.

**SECTION 7-222: WELLS AND OTHER UNDERGROUND FACILITIES; DISTANCE FROM VILLAGE WATER SOURCES**

It shall be unlawful to cause pollution to or be in a position to cause pollution to the public water supply by willfully or carelessly allowing the following facilities, acts or events within the specified footage of any village public water supply well. The following facilities, acts or events shall be defined as nuisances for purposes of this subsection:

Water well	1,000 feet
Sewage lagoon	1,000 feet
Land application of municipal/industrial waste material	1,000 feet
Feedlot or feedlot runoff	1,000 feet
Underground disposal system (septic system, etc.)	500 feet
Corral	500 feet
Pit toilet, vault toilet	500 feet



Wastewater holding tank	500 feet
Sanitary landfill/dump	500 feet
Chemical or petroleum product storage	500 feet
Sewage treatment plant	500 feet
Sewage wet well	500 feet
Sanitary sewer connection	100 feet
Sanitary sewer manhole	100 feet
Sanitary sewer line	50 feet

(Ord. No. 2007-01)

## **Article 3 – Sewer Department**

### **SECTION 7-301: OPERATION AND FUNDING**

A. The village owns and operates the sewer system through the utilities superintendent. The Village Board, for the purpose of defraying the cost of the management and maintenance of the sewer system, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the sewer maintenance fund.

B. The utilities superintendent shall have the direct management and control of the Sewer Department and shall faithfully carry out the duties of his office. He shall have the authority to adopt rules and regulations for the sanitary and efficient management of the department subject to the supervision and review of the Village Board. The said board shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the village clerk for public inspection during office hours.

(Neb. Rev. Stat. §17-925.01)

### **SECTION 7-302: DEFINITIONS**

Unless the context specifically indicates otherwise, the meaning of terms used in this section shall be as follows:

"Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning 5 feet outside the inner face of the building wall.

"Building or house sewer" shall mean and include that part of a house or building drainage system extending from the house or building drain to its connection with the main sewer.

"Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

"Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

"Person" shall mean any individual, firm, company, association, society, corporation, or group.

"Public sewer" shall mean a sewer that is controlled by public authority.

"Sanitary sewer" shall mean a sewer that carries sewage and to which storm, sur-

face, and ground waters are not intentionally admitted.

"Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

"Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

"Sewage works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

"Sewer" shall mean a pipe or conduit for carrying sewage.

"Sewer system" shall mean and include all facilities for collecting, pumping, treating, and disposing of sewage.

"Utilities superintendent" shall mean the utilities superintendent of the village sewage system or his authorized deputy, agent or representative.

"Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

### **SECTION 7-303: UNLAWFUL DEPOSITS AND DISCHARGES; PROHIBITED FACILITIES**

A. It shall be unlawful for any person to place, deposit or permit to be deposited any human or animal excrement, garbage, or other objectionable waste in any unsanitary manner on public or private property within the village, within two miles of the corporate limits thereof or in any area under the jurisdiction of said village.

B. It shall be unlawful to discharge to any natural outlet within the village, within two miles of the corporate limits thereof or in any area under its jurisdiction any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.

C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage. Septic tanks may be installed as provided in Section 7-321.

D. It shall be unlawful for any person to discharge or cause to be discharged any storm water, surface water, ground water, roof runoff surface drainage, or polluted industrial process waters into the sanitary sewer.

E. It shall further be unlawful to connect or maintain connected to the sanitary sewer system any pump which pumps any of the above-identified kinds of water for

any purpose whatsoever. In addition to the other remedies that are provided by this chapter for violations of this code, the village shall have the right to secure the abatement of any connection or discharging violation of this section.

#### **SECTION 7-304: MANDATORY HOOKUP**

A. The owner of any house, building, or property used for human employment, recreation, or other purposes, situated within the village and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer line of the village, is hereby required at the owner's expense to install suitable toilet facilities therein and to connect such facilities directly with the said public sewer in accordance with the provisions of this article within 90 days after date of official notice to do so, provided that said public sewer is within 100 feet of the property line.

B. The village may furnish sewer service to persons within its corporate limits whose property line is not within 100 feet of the said public sewer with permission from the Village Board, provided the entire cost of pipe and other installation charges shall be paid by such consumer. Nothing herein shall be construed to obligate the village to provide sewer service to persons whose property line is not within 100 feet of the said public sewer.

C. Each building hereafter erected shall be connected with the sewer system at the time of its erection. In the event that any property owner, occupant, or lessee shall neglect, fail, or refuse to make such a connection with the public sewer within a period of 60 days after notice has been given to him or her to do so by registered mail or by publication in a newspaper in or of general circulation in the village, the Village Board shall have the power to cause the same to be done, to assess the cost thereof against the property, and to collect the assessment thus made in the manner provided for collection of other special taxes and assessments or to collect in the manner provided for the collection of sewer bills as provided herein.

#### **SECTION 7-305: SERVICE TO NONRESIDENTS**

The Sewer Department shall not supply sewer service to any person outside the corporate limits without special permission from the Village Board. The entire cost of pipe and other installation charges shall be paid by such consumer. Nothing herein shall be construed to obligate the village to provide sewer service to nonresidents. (Neb. Rev. Stat. §19-2701)

#### **SECTION 7-306: CONSUMER'S APPLICATION FOR PERMIT; CLASSIFICATION; SERVICE DEPOSIT; INSPECTION FEES**

A. Any person wishing to connect with the sewer system shall make an application to the village clerk, who may require any applicant to make a service deposit in such amount as has been set by the Village Board and placed on file at the village office. Sewer service may not be supplied to any house or building except upon the

order of the utilities superintendent. (Neb. Rev. Stat. §19-2701)

B. There shall be two classes of building sewer permits: (1) for residential and commercial service and (2) for service to establishments producing industrial wastes. In either case, the owner or his or her agent shall make application on a form furnished by the village. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee for a residential or commercial building sewer permit and a fee for an industrial building sewer permit shall be paid to the village at the time the application is filed. Said fees shall be set by the Village Board and placed on file in the office of the village clerk for public inspection.

#### **SECTION 7-307: SEWER CONTRACT; NOT TRANSFERABLE**

A. The rules, regulations, and sewer rental rates hereinafter named in this section shall be considered a part of every application hereafter made for sewer service and shall be considered a part of the contract between every customer now or hereafter served.

B. The making of the application on the part of any applicant or the use of sewer service by present customers thereof shall constitute a contract between the customer and the village to which said contract both parties are bound. If the customer shall violate any of the provisions of said contract or any reasonable rules and regulation that the Village Board may hereafter adopt, the utilities superintendent or his agent may cut off or disconnect the water service from the building or premises of such violation. No further connection for water service to said building or premises shall again be made save or except by order of the superintendent or his agent.

C. Contracts for sewer service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any customer shall sell, dispose of, or move from the premises where service is furnished or if the said premises are destroyed by fire or other casualty, he or she shall at once inform the utilities superintendent, who shall cause the water service to be shut off at the said premises. If the customer should fail to give notice, he or she shall be charged for sewer service monthly until the official in charge of sewers is otherwise advised of such circumstances.

(Neb. Rev. Stat. §18-503)

#### **SECTION 7-308: INSTALLATION EXPENSE**

All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner, who shall indemnify the village from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (Neb. Rev. Stat. §18-503)

**SECTION 7-309: PROPERTY OWNER; DUTY TO MAINTAIN**

The village may require the owner of any property which is within the village and connected to the public sewers or drains to repair or replace any connection line which serves the owner's property and is broken, clogged or otherwise in need of repair or replacement. The property owner's duty to repair or replace such a connection line shall include those portions upon the owner's property and those portions upon public property or easements up to and including the point of junction with the public main. The village clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of such owner or the agent of such owner, directing the repair or replacement of such connection line. If within 30 days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the utilities superintendent shall complete the work and charge the cost of such repairs or replacement to the customer. (Neb. Rev. Stat. §18-1748)

**SECTION 7-310: PLUMBERS**

The plumber who connects with the public sewer system shall be held responsible for any damage to the sewers or the public ways and property. Said plumber shall restore all excavated streets to the complete satisfaction of the utilities superintendent and make good any settlement of the ground or pavement caused by such excavation.

**SECTION 7-311: INSTALLATION OR REPAIR**

A. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining permission from the utilities superintendent.

B. Any installation or repair of any part of the sewerage system shall be done under the supervision of the utilities superintendent and strictly in accordance with the rules, regulations, and specifications on file with the village clerk and prescribed for such installation by the village engineer, provided that the said rules, regulations, and specifications have been reviewed and approved by the Village Board. Where the material proposed to be used for sewerage system installation or repairs is not among those on file in the clerk's office, a determination shall be made and expense paid using the same procedures as prescribed for determinations of materials for water mains, supply lines and service lines. (Neb. Rev. Stat. §18-503)  
(Neb. Rev. Stat. §18-503)

**SECTION 7-312: USE OF EXISTING SEWERS**

Old building sewers and drains may be used in connection with new buildings or new plumbing only when they are found, on examination by the utilities superintendent, to conform in all respects to the requirements governing new sewers and drains. If the old work is found defective or otherwise unsatisfactory, the superintendent shall notify

the owner to make the necessary changes to conform to the provisions of the village code.

### **SECTION 7-313: DIRECT CONNECTION; SPECIFIC CONDITIONS**

A separate and independent building sewer shall be provided for every building. Where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer but the village does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned. (Neb. Rev. Stat. §18-503)

### **SECTION 7-314: FEE STRUCTURE; CLASSIFICATION**

For the purpose of rental fees, the Village Board may classify the customers of the Sewer Department, provided that such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers. (Neb. Rev. Stat. §17-925.02)

### **SECTION 7-315: SEWER RATES**

The Village Board has the power and authority to fix the rates to be paid by the sewer customers for the use of sewer service. All such rates shall be on file for public inspection at the office of the village clerk. All sewer customers shall be liable for the minimum rate provided by ordinance.

### **SECTION 7-316: USER NOTIFICATION**

Each user will be notified, at least annually, with a regular bill, of the rate and that portion of the user charges ad valorem taxes which are attributable to wastewater treatment.

### **SECTION 7-317: BILLING AND COLLECTIONS**

The village clerk shall bill the consumers and collect all money received by the village on the account of the Sewer Department and shall faithfully account for and pay to the village treasurer all revenue collected. Billing, collection and termination procedures are set forth in Sections 7-102 and 7-103. (Neb. Rev. Stat. §17-540)

### **SECTION 7-318: MANHOLES**

Entrance into a manhole or opening for any purpose except by authorized persons is hereby prohibited. It shall be unlawful to deposit or cause to be deposited in any receptacle connected with the sewer system any substance which is not the usual and natural waste carried by the system.



**SECTION 7-319: DESTRUCTION OF PROPERTY**

No person or persons shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the wastewater facilities. Any person or persons violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

**SECTION 7-320: PRIVATE SEWAGE DISPOSAL; PERMIT**

A. Where a public sanitary or combined sewer is not available under the provisions herein, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

B. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the utilities superintendent. The application for such permit shall be made on a form furnished by the village, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the superintendent. A permit and inspection fee as set by the Village Board shall be paid to the village at the time the application is filed.

C. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the utilities superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the superintendent.

D. The type, capacities, location and layout of a private sewage disposal system shall comply with the Nebraska Department of Environmental Quality Title 124 *Rules and Regulations for the Design, Operation and Maintenance of Septic Tank Systems*.

E. At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this chapter within 60 days and the private sewage system shall be abandoned in accordance with Title 124 as provided in subsection (D).

F. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the village.

G. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the health officer or by state or federal law.

**SECTION 7-321: USE OF SUMP PUMPS OR SIMILAR DEVICES**

No person shall drain into the village sewer system any discharge from a sump pump or similar device, directly or indirectly. In addition, a sump pump or similar device may not be connected, attached, fused or linked to the village sewer system. A sump pump or similar device is defined herein as any mechanical or physical means which drains, ejects, percolates or discharges water, sludge or slush.

**SECTION 7-322: DISCHARGE OF WATERS**

A. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial waters to any sanitary sewer.

B. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the utilities superintendent. Industrial cooling water or unpolluted process water may be discharged, on approval of the superintendent, to a storm sewer, combined sewer, or natural outlet. The contributor of any identifiable discharge of polluted water to the sanitary sewer system shall be held responsible for reimbursing the village for such costs. The costs shall be determined by the superintendent.

**SECTION 7-323: HAZARDOUS DISCHARGES; PROHIBITED**

No person shall discharge or cause to be discharged any of the following-described waters or wastes to any public sewers:

A. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

B. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in waters of the sewage treatment plant, including but not limited to cyanides in excess of 2 mg/l as CN in the wastes as discharged to the public sewer.

C. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

D. Solid or viscous substances in quantities or of such size as to be capable of causing obstruction to the flow in sewers, or other interference with the proper opera-

tion of the sewage works such as but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshing, entrails and paper dishes, cups, mild containers, etc., either whole or ground by garbage grinders.

E. Further, specific prohibitions, options for handling hazardous discharges, compliance procedures and penalties for violations shall be as provided by the requirements of applicable regulations, laws, codes, and ordinances.

## **Article 4 – Solid Waste**

### **SECTION 7-401: DEFINITIONS**

The following definitions shall apply in interpretation and enforcement of this article.

"Approved receptacles" means totter carts or containers approved by the contract vendor for the collection of solid waste.

"Approved waste disposal or landfill site" means a place that has been approved by the State of Nebraska for disposal of garbage, trash and waste, as well as used building materials and debris from construction, renovation or demolition.

"Collection stop" means each single-family dwelling including homes, motor homes, trailers or modular homes, or each unit in a multi-family dwelling located within the corporate limits of the village.

"Contract vendor" means the commercial garbage collection business having a valid contract with the Village Board for the collection and disposal of solid waste within the village.

"Garbage" means any animal, fruit, vegetable, kitchen refuse or other material that will or may decompose and become offensive or dangerous to health, not including dead animals or manure.

"Trash" means wooden or cardboard boxes, chips or pieces of wood, bottles, broken glass, crockery, tin cans, papers, rags or any other litter or debris that is not an immediate hazard to the health of the residents of the village, except that used or discarded furniture or appliances, tree limbs, branches, sticks, yard waste, garden waste, leaves or grass clippings are not included within the meaning of the word "trash."

"Waste" means cinders or ashes (when cool to the touch), broken plaster, brick, stone, sawdust, paper, plastic, glass, broken glass or metal.

"Yard waste" means leaves, grass clippings, garden residue, excess garden produce, sticks, branches and tree limbs.

### **SECTION 7-402: OWNER'S RESPONSIBILITY**

It shall be unlawful for any person to keep garbage, trash or waste or any kind that may be injurious to the public health or offensive to the residents of the village in, on, or about any dwelling, building, or premises or any other place in the village unless the same is kept in approved receptacles awaiting collection and disposal. It shall be unlawful to throw or sweep into the streets, alleys, parks, or other public grounds any dirt, paper, nails, pieces of glass, refuse, yard waste, garbage, trash or waste of any

kind. No person may permit yard waste, garbage, trash or waste to accumulate and all persons shall properly dispose of the same within 24 hours after notification from the chairman of the Village Board, who shall represent the Board of Health. (Neb. Rev. Stat. §19-2106)

### **SECTION 7-403: MANDATORY COLLECTION**

All garbage, trash and waste generated by the residents of the village shall be collected for disposal by the contract vendor. The said vendor shall collect all garbage, trash and waste from the approved receptacles at each collection stop not less frequently than weekly. In case of weather or road conditions making collection impossible or impractical, collection will be made as soon thereafter as the impediment can reasonably be overcome. Each collection stop shall have approved receptacles approved by the contract vendor for the purpose of accumulation of garbage, trash and waste awaiting collection. All residents of the village shall make the approved receptacles available to the contract vendor by 7:00 a.m. on the scheduled collection date by placing the approved receptacles in the alley or at the edge of the street in front of the premises, as determined by the contract vendor.

### **SECTION 7-404: COLLECTION FEES**

A collection fee shall be charged by the contract vendor for each collection stop, which fee shall be collected by the village. The Village Board has the power and authority to set by resolution the amount of collection fees. The village clerk shall bill each collection stop for the collection fees, which shall be a part of the utility bills and collected in the manner set forth in Section 7-102.

### **SECTION 7-405: YARD WASTE PROHIBITED**

It shall be unlawful for any person to place yard waste into an approved receptacle for collection by the contract vendor. Yard waste shall be disposed of by the owner of the premises upon which such yard waste is grown and produced by mulching, composting, or hauling away to an approved waste disposal or landfill site at the expense of the owner of said premises.

### **SECTION 7-406: DISPOSAL AT APPROVED SITE**

Used building materials and debris from construction, renovation or demolition shall be removed from the village by the owner thereof and delivered to an approved waste disposal or landfill site for disposal. Such removal and disposal shall be at the expense of the owner of said materials. Any bulky garbage, trash or waste that does not fit into the approved receptacles shall be delivered to an approved waste disposal or landfill site by the owner thereof at his or her expense; provided, however, items such as discarded furniture or appliances may be removed by the contract vendor upon request.

**SECTION 7-407: COMMERCIAL ENTERPRISES**

Any business, firm or commercial enterprise conducting business in the village shall be required to properly dispose of its garbage, trash and waste in accordance with this article, except that such business, firm or commercial enterprise shall make arrangements directly with the contract vendor or any other person for the removal and disposal of such garbage, trash and waste. Any fees charged by the contract vendor or any other person for the removal and disposal of such garbage, trash and waste shall be paid directly to the contract vendor or other person by the business, firm or commercial enterprise.

**SECTION 7-408: DEAD ANIMALS**

Any dead animal shall be immediately removed and buried by its owner. If the owner cannot be found within two hours after discovery of the same, then such animal shall be removed by and at the expense of the village. Dead animals shall not be buried within the corporate limits of the village nor within one mile thereof, nor in or above the course of ground water that is used for drinking purposes by the village or its inhabitants. Such animals may, however, be buried in the village dumping ground. (Neb. Rev. Stat. §17-207)

**SECTION 7-409: HAZARDOUS WASTE OR WASTE REQUIRING SPECIAL HANDLING**

Any person, firm, or corporation within the village solid waste jurisdiction area who generates or creates hazardous waste or waste requiring special handling or disposal shall be responsible for the transportation and disposal of the same. All such handling and disposal shall in all respects comply with state and federal laws and regulations pertaining to the specific type of waste generated. (Neb. Rev. Stat. §13-2020, 13-2023, 13-2026)

**SECTION 7-410: ADDITIONAL REGULATIONS**

The Village Board may from time to time make and adopt by ordinance such additional rules and regulations governing the use, operations, and control of the solid waste collection and disposal system and the regulation of solid waste within the village's solid waste jurisdiction area as it may deem necessary to promote the efficient operation and management of the system and to protect the environment and the health, safety, and welfare of all persons within the jurisdiction area. (Neb. Rev. Stat. §13-2020, 13-2023, 13-2026)

## **Article 5 – Penal Provisions**

### **SECTION 7-501: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of an offense and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.



## **CHAPTER 8 – FIRE REGULATIONS**

### **ARTICLE 1 – FIRE DEPARTMENT**

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## **CHAPTER 8 – FIRE REGULATIONS**

### **Article 1 – Fire Department**

#### **SECTION 8-101: AGREEMENT WITH HICKMAN RURAL FIRE DISTRICT**

In April of 1968 the Village of Roca entered into an agreement with the Hickman Rural Fire Protection District for fire protection within the village. The rules and regulations of the Rural Fire Protection District shall be incorporated by reference as the rules and regulations of the village for the purposes of fire protection. (Neb. Rev. Stat. §35-501, 3-514.01)

## **Article 2 – Fires**

### **SECTION 8-201: PRESERVATION OF PROPERTY**

Any official of the Fire Department shall have the power during the time of a fire to cause the removal of any private or public property whenever it shall become necessary to do so for the preservation of such property from fire, to prevent the spreading of fire, or to protect adjoining property. The said officials may direct the firefighters to remove any building, structure, or fence for the purpose of checking the progress of any fire.

### **SECTION 8-202: TRAFFIC**

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (Neb. Rev. Stat. §60-6,183)

### **SECTION 8-203: PEDESTRIANS**

It shall be unlawful for any pedestrian to enter or remain in any street after a fire alarm shall have sounded until the fire trucks shall have completely passed. (Neb. Rev. Stat. §28-908)

### **SECTION 8-204: DRIVING OVER HOSE**

It shall be unlawful for any person, without the consent of the fire chief or assistant fire chief, to drive any vehicle over unprotected hose of the Fire Department. (Neb. Rev. Stat. §60-6,184)

### **SECTION 8-205: FALSE ALARM**

It shall be unlawful for any person to intentionally and without good and reasonable cause raise any false alarm of fire. (Neb. Rev. Stat. §28-907, 35-520)

### **SECTION 8-206: MANDATORY ASSISTANCE**

Any official of the Fire Department may command the assistance and services of any person present at a fire to help in extinguishing the fire or in the removal and protection of property. In the event that a spectator refuses, neglects or fails to assist the Fire Department after a lawful order to do so, he shall be deemed guilty of a misdemeanor.

### **SECTION 8-207: INTERFERENCE**

It shall be unlawful for any person or persons to hinder or obstruct the fire chief or the

members of the Fire Department in the performance of their duties. A person commits the offense of interfering with a fireman if at any time and place where any fireman is discharging or attempting to discharge any official duties he or she willfully:

A. Resists or interferes with the lawful efforts of any fireman in the discharge or attempt to discharge an official duty; or

B. Disobeys the lawful orders given by any fireman while performing his or her duties; or

C. Engages in any disorderly conduct which delays or prevents a fire from being extinguished within a reasonable time; or

D. Forbids or prevents others from assisting or extinguishing a fire or exhorts another person, as to whom he has no legal right or obligation to protect or control, not to assist in extinguishing a fire.

(Neb. Rev. Stat. §28-908)

## **SECTION 8-208: FIRE WATCH**

After all fires have been extinguished and the firefighting equipment has been removed from the scene, a fire watch shall be maintained about the fire area for a period of not less than 24 hours or until, in the opinion of the fire chief, the fire is deemed to be completely extinguished and no possibility of re-kindling is likely

## **Article 3 – Fire Prevention**

### **SECTION 8-301: FIRE PREVENTION CODE**

All of the provisions of the most recent edition of the Fire Prevention Code, as recommended by the American Insurance Association, are hereby adopted by reference as part of this chapter. One copy, together with all revisions of and amendments thereto, shall be available in the office of the village clerk for public inspection during office hours. In the event that any of the provisions of said code are in conflict with any of the provisions of the municipal code, the provisions of the municipal code shall prevail. (Neb. Rev. Stat. §18-132, 19-902, 19-922, 81-502)

### **SECTION 8-302: LIFE SAFETY CODE**

Incorporated by reference into this municipal code are the standards recommended by the National Fire Protection Association known as the Life Safety Code, most recent edition and all subsequent amendments. This code shall have the same force and effect as if set out verbatim herein. One copy, together with all revisions of and amendments thereto, shall be available in the office of the village clerk for public inspection during office hours. (Neb. Rev. Stat. §18-132, 19-902, 81-502)

### **SECTION 8-303: CODE ENFORCEMENT**

It shall be the duty of all village officials to enforce the incorporated fire code provisions as provided in Sections 8-301 and 8-302, and all infractions shall be immediately brought to the attention of the fire chief.

### **SECTION 8-304: FIRE ON PAVEMENT**

It shall be unlawful for any person to set out a fire on the pavement or near any curb within the village. (Neb. Rev. Stat. §17-556)

### **SECTION 8-305: OPEN BURNING BAN; WAIVER**

A. There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land.

B. The fire chief or his designee may waive an open burning ban under subsection (A) of this section for an area under his jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. Said person shall make application on a form provided by the state fire marshal. The permit shall be signed by the fire chief or his designee. The fire chief may adopt and promulgate rules and regulations listing the conditions acceptable for issuing a permit to conduct open burning.

C. The fire chief or his designee may waive the open burning ban in his juris-

diction when conditions are acceptable to the chief or his designee. Anyone burning in such jurisdiction when the open burning ban has been waived shall notify the Fire Department of his/her intention to burn.

D. The Fire Department may set and charge a fee for each such permit issued. Such fees shall be remitted to the Village Board for inclusion in the general funds allocated to the Fire Department. Such funds shall not reduce the tax requirements for the Fire Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under subsection (B) of this section in the course of such state's or political subdivision's official duties.

(Neb. Rev. Stat. §81-520.01)

### **SECTION 8-306: OUTDOOR FIRE PITS AND FIREPLACES**

“Outdoor fireplaces” shall include fire pits, portable fire pits, and chimineas. These residential outdoor fireplaces use wood as a fuel and are used for containing recreational fires located at a private residence for the purpose of outdoor cooking and personal enjoyment. Outdoor fireplaces do not include barbeque grills that use propane or charcoal as a fuel and are used primarily for outdoor cooking.

“Portable fire pits” are defined as being commercially designed and intended to confine and control outdoor wood fires.

“Chimineas” are defined as outdoor patio fireplaces, usually made from clay, intended to confine and control outdoor wood fires.

“Fire pits” are usually constructed of steel, concrete and/or stone, and constructed above ground with a heavy steel screen cover.

All outdoor fireplaces shall meet the following requirements:

A. *Clearances.* A minimum 10-foot clearance shall be maintained between the outdoor fireplace and combustible structure or materials such as, walls, roofs, fences, decks, wood piles, and other combustible material.

B. *Construction.* Outdoor fireplaces shall be constructed of concrete or approved non-combustible materials. The fire fuel area and openings shall be completely enclosed by a steel screening (spark guard) or an approved non-combustible screening material with openings no greater than one-half inch square. Vent stacks, chimneys, and chimineas shall have a steel screen cover made of heavy wire mesh or other non-combustible material with openings no greater larger than one-half inch square. Not permitted are barrels, half-barrels, drums or similarly constructed devices.

C. *Size.* The fuel area for a fire pit shall not be larger than 3 feet in diameter



and 3 feet high.

D. *Location.* Outdoor fireplaces shall be placed on a stable non-combustible surface such as a concrete pad and only at grade level. Outdoor fireplaces shall not be located on combustible balconies or decks and shall not be located under any combustible balcony or any overhanging portion of a structure.

E. *Type of Materials Being Burnt.* Materials allowed by this section shall be limited to untreated wood or approved fireplace starter logs. Petroleum products, rubbish, grass, leaves, cardboard, plastics, rubber or any material that may flow out of the containment or cause excessive heat, smoke, or offensive smell shall not be permitted.

F. *Amount of Materials Being Burnt.* Users must (1) limit the amount of material being burnt to ensure the flames are confined inside the fuel area of the outdoor fireplace and the flames do not extend above the pit or into the chimney, and (2) follow the manufacturer's recommendation on the maximum amount of fuel to be used at one time with spark guard in place.

G. *Supervision.* Outdoor fireplaces shall be under constant supervision by at least one responsible person of age 18 or older from the ignition of the fire until the fire is completely extinguished and embers are cooled so as to prohibit the fire from rekindling.

H. *Provisions for Protection.* A garden hose connected to a water supply or other approved fire extinguishing equipment shall be readily available for use.

I. *Wind and Weather Conditions.* Outdoor fireplaces shall be completely extinguished and/or not be operated when winds are blowing over 12 mph and wind direction will cause smoke, embers, or other burning materials to be carried by the wind toward any building or other combustible materials. Outdoor fireplaces shall not be operated when weather conditions are extremely dry.

J. *Maintenance.* The owner is responsible to ensure proper maintenance and care is accomplished in accordance with manufacturer's instructions. At the minimum, the outdoor fireplace will be checked regularly for the appearance of cracks and other physical deterioration or loose parts.

K. *Discontinuance.* Smoke from any outdoor fireplace shall not create a nuisance for neighboring property owners. The fire shall be extinguished immediately upon the complaint of the neighboring property owner of any smoke nuisance. The fire chief or an authorized representative has the authority to require outdoor fireplace use to be immediately discontinued if such use is determined to constitute a hazardous condition to occupants of surrounding property.

L. *Building Permit.* For a fire pit, a site plan showing the location of the fire pit

on the property and a detailed drawing of the construction of the fire pit shall be submitted to the building inspector for review. A building permit will be issued based on approved plans. A building permit is not required for portable fire pits or chimineas, provided they are commercially designed and have been approved by an independent testing laboratory.

*M. Hours of Operation.* An outdoor fireplace shall be completely extinguished and embers cooled so as to prohibit the fire from rekindling prior to 11:00 pm.  
(Neb. Rev. Stat. §17-549, 17-556, 81-520.01)

## **SECTION 8-307: INSPECTIONS; VIOLATION NOTICE**

A. It shall be the duty of the fire chief, when directed to do so by the Village Board, to inspect or cause to be inspected by a Fire Department officer, member, or some other official as often as may be necessary all buildings, premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to create a fire hazard. It shall be the duty of the owner, lessee or occupant of any building or structure, except the interiors of private dwellings, to allow the fire inspector to inspect the structure for purposes of ascertaining and enumerating all conditions therein that are likely to cause fire or any other violations of the provisions of the village ordinances affecting the hazard of fire.

B. The inspection shall be of the storage, sale and use of flammable liquids, combustibles, and explosives; electric wiring and heating; and the means and adequacy of exits in case of fire in schools, churches, hotels, halls, theaters, factories, hospitals, and all other buildings in which numbers of persons congregate from time to time for any purpose whether publicly or privately owned; the design, construction, location, installation, and operation of equipment for storing, handling, and utilizing of liquefied petroleum gases, specifying the odorization of said gases and the degree thereof; and chemicals, prozylin plastics, nitrocellulose films, or any other hazardous material that may now or hereafter exist.  
(Neb. Rev. Stat. §81-512)

C. It shall be the duty of the owner, lessee, or occupant of any building or structure that was lawfully inspected as herein prescribed and who receives written or verbal notice of a violation of any of the provisions of the village ordinances to correct such condition within five days from the date of receipt of such notice.

## **Article 4 – Explosives; Poisonous and Flammable Gases**

### **SECTION 8-401: EXPLOSIVES; STORAGE; REGISTRATION**

A. Any person, firm, or corporation storing or keeping dynamite, gunpowder, nitroglycerine, or other high explosives within the village for any period of time shall register such information with the village clerk within ten days after such explosives are brought into the village. The clerk shall provide such information to the fire chief and to the Village Board. Transfer of explosives to another individual within the village shall require the individual receiving the explosives to register the transfer and the new location of the explosives with the clerk. Also, moving explosives to a new location by the owner shall require registration of that fact to the clerk.

B. All high explosives, including dynamite, gunpowder and nitroglycerine shall be stored in a proper receptacle which shall be closed at all times except when actually in use. Such cement, metal, or stone receptacle shall not be located in any room where there is a flame or flammable materials. The area surrounding the storage facilities shall be kept clear of rubbish, brush, dry grass, or trees for not less than 25 feet in all directions. Any other combustible materials shall be kept a distance of not less than 50 feet from outdoor storage facilities.

(Neb. Rev. Stat. §17-549)

### **SECTION 8-402: EXPLOSIVES; BULLETS**

Cartridges, shells, and percussion caps shall be kept in their original containers away from flame, flammable materials, and high explosives.

### **SECTION 8-403: EXPLOSIVES; BLASTING PERMITS**

Any person wishing to discharge high explosives within the village must secure a permit from the Village Board and shall discharge such explosives in conformance with their direction and under their supervision, and in no case shall any person perform blasting operations unless operating under the direct supervision of a person in possession of a valid user's permit issued by the Nebraska State Patrol. (Neb. Rev. Stat. §17-556, 28-1229)

### **SECTION 8-404: POISONOUS OR FLAMMABLE GASES**

Any person, firm, or corporation desiring to store or keep in the village for any period of time any form of poisonous or flammable gas or liquefied petroleum gas or add to, enlarge, or replace any facility used for the storage of such gases, must first get permission from the Village Board. The board shall require the name of the gas, the place of storage, and the amount of gas stored. If permission is granted, the Village Board shall prescribe such rules, regulations, and precautionary actions as it may deem necessary. Permit requirements for the initial construction or location of storage facilities shall not apply to those facilities in existence on the effective date of this ordinance. Any such

present use that is discontinued for a period of 60 days shall not be revived without a permit. The provisions of this section shall be controlling throughout the village and throughout its zoning jurisdiction. (Neb. Rev. Stat. §17-549)

## **Article 5 – Fireworks**

### **SECTION 8-501: REGULATION OF USE, SALE, POSSESSION**

The use, sale, offer for sale, and possession of permissible fireworks in the village as defined by Neb. Rev. Stat. §28-1241 shall be governed and regulated by Neb. Rev. Stat. §28-1241 to §28-1252, including any and all amendments thereto, together with any rules and regulations adopted by the state fire marshal for the enforcement of said sections.

### **SECTION 8-502: CONSUMER FIREWORKS; RETAIL SALE; LICENSE; FEE**

A. It shall be unlawful for any person to sell, hold for sale, or offer for sale at retail any consumer fireworks in the Village unless such person has first obtained a license from the Village as a retailer. "Consumer fireworks" shall be defined as fireworks that are approved by the state fire marshal.

B. Any person desiring to sell, or offer for sale any consumer fireworks as a retailer shall make application to the village clerk for a license authorizing the same. Such application shall include the following information and such additional information as the Village shall deem necessary.

1. The name and residence address of the applicant.
2. The location of the premises for which the license is sought.
3. When the license is sought for a permanent building, the application shall provide an accurate drawing or plat showing the location of the sales display within the building, together with aisles, exits, etc.
4. When the license is sought in a temporary structure or facility, the applicant shall provide a legal description of the premises, a description of the structure or facility to be used, and a drawing showing the location of such temporary structure or facility upon the premises, including the dimensions of the temporary structure or facility, the distance of the temporary structure or facility from the property lines, and the location of each parking space necessary for the size of the temporary structure or facility.
  - a. The temporary structure or facility must be located a minimum of 10 feet from side and back property lines and a minimum of 30 feet from the front property line.
  - b. The applicant shall provide one off-street parking space for each 200 square feet of the temporary structure or facility.

c. The term “temporary structure or facility” shall include tents.

C. After consideration of the information contained in the application for a license, the clerk may issue a permit therefor, conditioned upon reasonable safety measures to be specified in the license and upon payment by the applicant of a fee set by resolution of the Village Board, kept on file at the office of the village clerk and available for public inspection during office hours. Applicants must also pay a deposit to ensure that the sales area is kept in an orderly manner and cleaned up after the sales are complete, and to prevent any damage to public property. The amount of such deposit shall be set by resolution of the Village Board, kept on file at the office of the village clerk and available for public inspection during office hours. Any license issued under the provisions of this section shall be valid only for the period of June 25 through and including July 4 and for the period of December 29 through and including December 31 of the year in which issued.

D. The premises shall be subject to inspection at any time during the period for which the permit is issued. If the premises are not in conformity with the permit as issued, including the drawing submitted with the application, the permit may be suspended until the premises are brought into compliance.  
(Ord. No. 2017-04, 11/13/17)

#### **SECTION 8-503: FEES RECEIVED; GENERAL FUND**

The funds received under the provisions hereof shall be deposited in the general fund of the Village. (Ord. No. 2017-04, 11/13/17)

#### **SECTION 8-504: SALE AND USE DATES; HOURS OF USE RESTRICTED**

A. Consumer fireworks may be sold and offered for sale at retail from:

1. June 25 through June 30 from 9:00 a.m. to 11:00 p.m.
2. July 1 through July 3 from 9:00 a.m. to 11:59 p.m.
3. July 4 from 9:00 a.m. to 11:59 p.m.
4. December 29 through December 31 from 9:00 a.m. to 11:59 p.m.

B. Consumer fireworks may be discharged, exploded or used within the Village only from:

1. June 25 through June 30 from 10:00 a.m. to 10:00 p.m.
2. July 1 through July 3 from 10:00 a.m. to 11:00 p.m.
3. July 4 from 10:00 a.m. to 11:59 p.m.
4. December 29 through December 30 from 10:00 a.m. to 11:00 p.m.
5. December 31 from 10:00 a.m. to January 1 at 1:00 a.m.

(Ord. No. 2017-04, 11/13/17)

#### **SECTION 8-505: THROWING FIREWORKS; WHERE UNLAWFUL**

It shall be unlawful for any person to throw any firecracker, fireworks or pyrotechnic device, or any device which explodes upon contact with another object: (A) from or into a motor vehicle, (B) onto any street, highway or sidewalk, (C) at or near any person, (D) at or near any group of persons or (E) into any building or structure. (Ord. No. 2017-04, 11/13/17)

#### **SECTION 8-506: PROHIBITION; WHEN APPLICABLE**

The provisions herein shall not apply to:

A. Any fireworks for purposes of public exhibition or displays purchased from a distributor licensed under state law or the holder of a display license issued by the state fire marshal as provided by state law;

B. Any public exhibition or display under the auspices of any governmental subdivision of this state; and

C. Toy cap pistols or toy caps, each of which does not contain more than 25 hundredths of a gram of explosive material.  
(Ord. No. 2017-04, 11/13/17)

#### **SECTION 8-507: SALE PROHIBITED; FIRE DANGER**

The Village Board may prohibit the sale of all fireworks at any time during which the state fire marshal has declared a fire emergency by virtue of drought conditions or at any time during which the Lancaster County Sheriff's Office deems such banning to be necessary to preserve the life, safety, and welfare of the population. (Ord. No. 2017-04, 11/13/17)

#### **SECTION 8-508: VIOLATION; PENALTY**

A violation of any provisions of this article shall constitute grounds for revocation of any licensed issued and in this event no refund of the license fee shall be given. (Ord. No. 2017-04, 11/13/17)

## **Article 6 – Penal Provision**

### **SECTION 8-601: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.



## **CHAPTER 9 – BUILDING REGULATIONS**

### **ARTICLE 1 – BUILDING INSPECTOR**

**SECTION 9-101: POWERS AND AUTHORITY**

**SECTION 9-102: RIGHT OF ENTRY**

**SECTION 9-103: FURTHER DUTIES**

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### **ARTICLE 3 – BUILDING MOVING**

**SECTION 9-301: REGULATIONS**

**SECTION 9-302: COMPLETION OF MOVE**

### **ARTICLE 4 – PENAL PROVISION**

**SECTION 9-401: VIOLATION; PENALTY**

## **CHAPTER 9 – BUILDING REGULATIONS**

### **Article 1 – Building Inspector**

#### **SECTION 9-101: POWERS AND AUTHORITY**

The Village Board may contract the building inspector from the City of Lincoln to perform the duties pertaining to building inspection within the corporate limits of the village. In the event that the board fails to appoint a building inspector, the utilities superintendent shall be the building inspector ex officio. The building inspector, whether by appointment or contract, shall:

A. Follow the building codes as adopted by the City of Lincoln, which are hereby adopted by reference.

B. Have the duty of enforcing all building and housing regulations as herein prescribed.

C. Inspect all buildings repaired, altered, built, or moved in the village as often as necessary to insure compliance with all village ordinances.

D. Have the power and authority to order, at the direction of the Village Board, all work stopped on any construction, alteration, or relocation which violates any provisions prescribed herein.

E. At the direction of the board, issue permission to continue any construction, alteration, or relocation when the board is satisfied that no provision will be violated. If the stop order is an oral one, it shall be followed by a written stop order within one hour. Such written order may be served by any county sheriff.

#### **SECTION 9-102: RIGHT OF ENTRY**

It shall be unlawful for any person to refuse to allow the building inspector entry into any building or structure where the work of construction, alteration, repair or relocation is taking place, for the purpose of making official inspections, at any reasonable hour.

#### **SECTION 9-103: FURTHER DUTIES**

Further duties of the building inspector shall be as provided in subsequent articles herein.

## **Article 2 – Building Permits; Construction**

### **SECTION 9-201: APPLICATION**

Any person desiring to commence or proceed to erect, construct, repair, enlarge, demolish or relocate any building, dwelling or concrete driveway or cause the same to be done shall file with the village clerk an application for a building permit. The application shall be in writing on a form to be furnished by the village clerk. Every such application shall set forth the legal description of the land upon which the construction or relocation is to take place, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, architect, and contractor and such other information as may be requested thereon. The application, plans and specifications so filed with the village clerk shall be checked and examined by the Village Board and if they are found to be in conformity with the requirements of this chapter and all other ordinances applicable thereto, the board shall authorize the village clerk to issue the said applicant a permit. Whenever there is a discrepancy between permit application procedures contained herein and those contained in any building code adopted by reference, the provisions contained herein shall govern. (Neb. Rev. Stat. §17-550, 17-1001)

### **SECTION 9-202: PERMIT APPROVAL**

A. That pursuant to Nebraska law, a Village Board may provide procedures for approval of building permits within the Village. Pursuant to such authority, the Village Board hereby appoints the village clerk as the designated village official to approve or deny applications for building permits for buildings and other structures to be constructed within the Village.

B. All building permit applications shall be first submitted to the village clerk on forms supplied by her/him. In the event that such application requires a variance or zoning change, the Clerk shall submit the same to the Roca Planning Commission or the Roca Zoning Administrator for consideration of the application. The Clerk shall notify the applicant of such referral. The Planning commission and/or the Zoning Administrator shall contact the applicant to explain the procedure for obtaining a variance or zoning change.

C. Upon submission of each completed application, in the event it requires no variance or zoning change, the clerk shall immediately forward it to the Roca Planning Commission and the Roca Zoning Administrator for their review and recommendation. In the event that either the Planning Commission or the Zoning Administrator recommends denial of the building permit, the clerk shall deny the application until such time as the reasons for the denial have been remedied.

D. Upon approval of the Planning Commission and Zoning Administrator, the village clerk is hereby authorized to issue such building permit subject to any terms and conditions determined by the Planning Commission and/or Zoning Administrator.

E. Once issued, the building permit shall be subject to all building and other construction rules and regulations of the Village. Violation of any such rules and regulations shall be grounds for revocation of the permit.

F. The village clerk may, for any reason, defer action on the building application and submit it to the Village Board for their approval or rejection.  
(Ord. No. 2017-01, 9/11/17)

### **SECTION 9-203: DUPLICATE TO COUNTY ASSESSOR**

Whenever a building permit is issued for the erection, alteration or repair of any building within the village's jurisdiction and the improvement is \$1,000.00 or more, a duplicate of such permit shall be filed with the county assessor. (Neb. Rev. Stat. §18-1743)

### **SECTION 9-204: PERMIT CARD**

Upon the issuance of a building permit, the building inspector shall furnish to the applicant a permit card which shall be a distinctive color and shall contain the nature of the work, the location of the building, the number of the permit and the date of issuance. The said card shall be prominently displayed on the principal frontage of the building site close to or upon the building or structure and shall so remain until the final inspection has been made.

### **SECTION 9-205: BARRICADES AND LIGHTS**

It shall be the duty of the owner, tenant or lessee causing the construction, demolition or moving of any building or improvement within the village to have all excavations, open basements, building materials and debris protected by suitable guards or barricades by day and by warning lights at night during the time that such work is in progress. The failure, neglect or refusal of said persons to erect such guards shall constitute a violation of this section and the chairman or designated agent or the building inspector shall stop all work until guards are erected and maintained as required.

### **SECTION 9-206: TIME OF INSPECTION**

A. The building inspector, upon notification from the permit holder or his agent, shall make the following inspections of the building or structure and shall either approve that portion of the construction as completed or shall notify the permit holder or his agent that the work fails to comply with the requirements of the municipal code:

1. Foundation inspection shall be made after trenches are excavated and the necessary forms erected;
2. Frame inspection shall be made after the roof, framing, fire-blocking, and backing is in place and all pipes, chimneys, and vents are complete; and

3. Final inspection shall be made after the building is completed and ready for occupancy.

B. It shall be unlawful for any person to do work or cause work to be done beyond the point indicated in each successive inspection without the written approval of the building inspector.

#### **SECTION 9-207: LIMITATION**

If the work for which a permit has been issued shall not have begun within six months of the date thereof or if the construction is discontinued for a period of six months, the permit shall be void. Before work can be resumed, a new permit shall be obtained in the same manner and form as an original permit.

#### **SECTION 9-208: APPEAL FROM DECISION**

In the event it is claimed that the true intent and meaning of this chapter has been wrongly interpreted by the building inspector, that the time allowed for compliance with any order of the building inspector is too short or that conditions peculiar to a particular building make it unreasonably difficult to meet the literal requirements prescribed by this chapter and by the building inspector, the owner, his or her agent or the occupant may file a notice of appeal within ten days after the decision or order of the building inspector has been made. The Village Board shall hear all appeals and shall have the power and authority, when appealed to, to modify the decision or order of the building inspector. Such a decision shall be final, subject only to any remedy which the aggrieved person may have at law or equity. Applications for review shall be in writing and shall state the reasons why the variance should be made. A variance shall be granted only where it is evident that reasonable safety and sanitation is assured and may include conditions not generally specified by this code to achieve that end. A copy of any variance so granted shall be sent to both the building inspector and the applicant.

## **Article 3 – Building Moving**

### **SECTION 9-301: REGULATIONS**

A. It shall be unlawful for any person, firm, or corporation to move any building or structure within the village without a written permit to do so. Application may be made to the village clerk and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used and such other information as the Village Board may require. The application shall be accompanied by a certificate issued by the county treasurer to the effect that all the provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the said building is presently located. The village clerk shall refer the said application to the Village Board for approval of the proposed route over which the said building is to be moved. Upon said approval, the clerk shall then issue the said permit; provided, a good and sufficient corporate surety bond, check, or cash in an amount set by the board and conditioned upon moving said building without doing damage to any private or village property is filed with the clerk prior to the granting of any permit.

B. No moving permit shall be required to move a building that is 10 feet wide or less, 20 feet long or less and, when in a position to move, 15 feet high or less.

C. In the event it will be necessary for any licensed building mover to interfere with telephone poles and wires or a gas line, the company or companies owning, using, or operating the said poles, wires or line shall, upon proper notice of at least 24 hours, be present and assist by disconnecting the said poles, wires or line relative to the building moving operation. All expense of the said disconnection, removal or related work shall be paid in advance by the licensee unless such disconnection or work is furnished on different terms as provided in the said company's franchise.

D. Whenever the moving of any building necessitates interference with a water main, sewer main, pipes, or wire belonging to the village, notice in writing of the time and route of the said building moving operation shall be given to the utilities superintendent, who shall proceed on behalf of the village and at the expense of the mover to make such disconnections and do such work as is necessary.

(Neb. Rev. Stat. §60-6,288 to 60-6,294, 60-6,296)

### **SECTION 9-302: COMPLETION OF MOVE**

At such time as the building moving has been completed, the building inspector shall inspect the premises and report to the village clerk as to the extent of damages, if any, resulting from the said relocation and whether any village laws have been violated during the said operation. Upon a satisfactory report from the village police, the clerk shall return the corporate surety bond, cash, or check deposited by the applicant. In the event the basement, foundation, or portion thereof is not properly filled, covered or in a clean and sanitary condition, the Village Board may apply the money

deposited for the purpose of defraying the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit, the Village Board may recover such excess expense by civil suit or otherwise as prescribed by law.

## **Article 4 – Penal Provision**

### **SECTION 9-401: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.



## **CHAPTER 10 – MUNICIPAL PLANNING**

### **ARTICLE 1 – ZONING REGULATIONS**

#### **SECTION 10-101: ADOPTED BY REFERENCE**

### **ARTICLE 2 – SUBDIVISION REGULATIONS**

#### **SECTION 10-201: ADOPTED BY REFERENCE**

### **ARTICLE 3 – PENAL PROVISION**

#### **SECTION 10-301: VIOLATION; PENALTY**

## **CHAPTER 10 – MUNICIPAL PLANNING**

### **Article 1 – Zoning Regulations**

#### **SECTION 10-101: ADOPTED BY REFERENCE**

For the purpose of setting minimum standards to promote the public health, safety, morals, convenience, order, prosperity, and general welfare of the community, and to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, the Zoning Regulations for the Village of Roca, Nebraska, including any amendments thereto as may be made therein from time to time, have been adopted by Ord. No. 1977-7, June 15, 1977. One copy of the adopted Zoning Regulations shall be kept on file with the village clerk and available for public inspection during office hours. (Neb. Rev. Stat. §18-132, 18-1302)

## **Article 2 – Subdivision Regulations**

### **SECTION 10-201: ADOPTED BY REFERENCE**

To provide for harmonious development of the Municipality and its environs; for the integration of new subdivision streets with other existing or planned streets or with other features of the Comprehensive Plan; for adequate open spaces for traffic, recreation, light and air; for the distribution of population and traffic in a manner which will tend to create conditions favorable to health, safety, convenience, or prosperity; to insure conformance of subdivision plans with the capital improvement program of the Municipality; and, to secure equitable handling of all subdivision plats by providing uniform procedures and standards for observance by subdividers and the Planning Commission and Village Board, the Subdivision Regulations for the Village of Roca, Nebraska, and any amendments thereto as may be made therein from time to time, have been adopted by Ord. No. 1977-6, June 15, 1977. One copy of the adopted Subdivision Regulations shall be kept on file with the village clerk and available for public inspection during office hours. (Neb. Rev. Stat. §17-1003, 18-132)

## **Article 3 – Penal Provision**

### **SECTION 10-301: VIOLATION; PENALTY**

Any person, whether as owner, proprietor, or as the agent, attorney, or representative of any owner or proprietor of land who shall plat or subdivide any tract of land within the corporate limits of the village or adjoining and contiguous to the same, except as herein authorized, or who shall sell, transfer, deed or convey, contract, or agree to sell, transfer, or offer for sale any lot or piece of ground in any addition or subdivision of three or more parts within said corporate limits or adjoining and contiguous thereto without having first obtained the acceptance and approval of the plat or map thereof by the Village Board, and any person who shall violate or who shall fail, neglect, or refuse to comply with any of the provisions hereinbefore as now existing or as hereafter amended shall upon conviction be fined in any sum not exceeding \$500.00.

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