

LOOMIS, NEBRASKA

CODE OF ORDINANCES

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TITLE I: GENERAL PROVISIONS

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CHAPTER 10: GENERAL CODE CONSTRUCTION; GENERAL PENALTY

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§ 10.01 TITLE OF CODE.

This codification of ordinances shall be designated as the Village of Loomis Code of Ordinances and may be so cited.

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD OF TRUSTEES, VILLAGE BOARD or **GOVERNING BODY.** The legislative body of the village.

CODE, THIS CODE or **THIS CODE OF ORDINANCES.** This village code as modified by amendment, revision and adoption of new titles, chapters or sections.

COUNTY. Phelps County.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. Includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**.

OFFICER, OFFICE, EMPLOYEE, COMMISSION or **DEPARTMENT.** An officer, office, employee, commission or department of this village unless the context clearly requires otherwise.

PERSON. Includes bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies and associations.

(Neb. RS 49-801(16))

PRECEDING or **FOLLOWING.** Next before or next after, respectively.

SHALL. The act referred to is mandatory.

SIGNATURE or **SUBSCRIPTION.** Includes a mark when the person cannot write.

STATE. The State of Nebraska.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have **SUBCHAPTERS**.

VILLAGE, MUNICIPAL CORPORATION or **MUNICIPALITY.** The village adopting this Code.

WRITTEN. Any representation of words, letters or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this village shall be by the following rules, unless that construction is plainly repugnant to the intent of the Village Board or of the context of the same ordinance.

(A) **AND** or **OR.** Either conjunction shall include the other as if written "and/or," if the sense requires it.

(B) *Acts by assistants.* When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, the requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(C) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.07 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.08 REFERENCE TO OTHER SECTIONS.

Whenever a section refers to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is materially altered by the amendment or revision.

§ 10.09 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of this village exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state/federal laws, shall be the official time within this village for the transaction of all village business.

§ 10.12 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, **REASONABLE TIME OR NOTICE** shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is Sunday, it shall be excluded.

§ 10.13 ORDINANCES REPEALED.

This code contains all of the provisions of a general nature pertaining to the subjects enumerated and embraced in this code. All prior ordinances pertaining to the subjects treated by this code are repealed, except that nothing shall affect any rights acquired under, actions involving, or fines, penalties, forfeitures or liabilities incurred pursuant to those ordinances prior to repeal.

§ 10.14 ORDINANCES UNAFFECTED.

(A) All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code, including ordinances specified in this section, shall remain in full force and effect unless repealed expressly or by necessary implication:

- (1) Vacating or setting the boundaries of streets, alleys or other public places;
- (2) Annexing or detaching territory;
- (3) Granting or accepting easements, plats or dedication of land to public use;
- (4) Providing for the acquisition or conveyance of real or personal property;
- (5) Authorizing or directing public improvements to be made;
- (6) Levying taxes or special assessments;
- (7) Appropriating money;
- (8) Granting franchises or special licenses; or
- (9) Providing for the issuance of bonds or other instruments of indebtedness.

(B) All ordinances codified in this code shall remain in full force and effect unless repealed expressly.

§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance is repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the publication of the ordinance repealing or modifying it to give effect thereto.

(B) No suit, proceedings, right, liability, fine, forfeiture or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully as if the ordinance had continued in force, unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause or provision is itself repealed, the repeal shall not be construed to revive the former ordinance, clause or provision, unless it is expressly provided.

Statutory reference:

Requirements for amendments and revisions, see Neb. RS 17-614

§ 10.16 SECTION HISTORIES; STATUTORY REFERENCES.

(A) A statutory cite included in the history indicates that the text of the section reads substantially the same as the statute. Example: (Neb. RS 18-132)

(B) A statutory cite set forth as a “statutory reference” following the text of the section indicates that the reader should refer to that statute for further information. Example:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

Inspection of public records, see Neb. RS 84-712 et seq.

§ 10.99 GENERAL PENALTY.

(A) Any person who violates any of the provisions of this village code, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this code.

(B) (1) Whenever a nuisance exists as defined in Title IX of this code, the village may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(2) 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.

Statutory reference:

Authority to abate nuisances, see Neb. RS 18-1720 and 18-1722

Authority to impose fines, see Neb. RS 17-207 and 17-505

CHAPTER 11: VILLAGE STANDARDS

Section

11.01 Corporate seal

§ 11.01 CORPORATE SEAL.

The official corporate seal of the municipality shall be kept in the office of the Village Clerk/Superintendent, and shall bear the following inscription, “Seal, Village of Loomis, Phelps County, 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 governing body and countersigned by the Village Clerk/Superintendent.

(1997 Code, § 1-401)

Statutory reference:

Related provisions, see Neb. RS 17-502

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31. OFFICIALS AND EMPLOYEES

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ELECTIONS

§ 30.01 GENERALLY.

(A) All municipal issues and offices shall be combined on the statewide primary and general election ballots whenever possible.

(1) The issuance of separate ballots shall be avoided in a statewide election if municipal offices or issues can reasonably be combined with the nonpartisan ballot and state law does not require otherwise.

(2) All municipal elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide primary or general election.

(B) When the municipality holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act, being Neb. RS 32-101 to 32-1551. Any other election held by the municipality shall be held as provided in the Election Act unless otherwise provided by the charter, code or bylaws of the municipality.

(1997 Code, § 1-701) (Ord. 168, passed 9-11-1984; Ord. 95-19, passed 12-12-1995; Ord. 00-04, passed 6-13-2000; Ord. 03-05, passed 2-7-2005)

Statutory reference:

Related provisions, see Neb. RS 32-404, 32-556

§ 30.02 ELECTION OF OFFICERS; CERTIFICATIONS REQUIRED.

No later than July 1 of each even-numbered year, the Village Board shall certify to the Election Commissioner or the County Clerk, on forms prescribed by such official, the name of the village, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office.

(1997 Code, § 1-701-01) (Ord. 03-05, passed 2-7-2005)

Statutory reference:

Related provisions, see Neb. RS 32-404

§ 30.03 TERM OF OFFICE.

All elected officers of the municipality shall serve a term of four years and until their successors are elected and have qualified.

(1997 Code, § 1-702)

Statutory reference:

Related provisions, see Neb. RS 17-203.01

§ 30.04 TIE VOTES.

In the case of a tie vote of any of the candidates in either the primary or general election, the County Clerk shall notify such candidates to appear at his or her office on a given day and hour to determine the same by lot before the canvassing board, and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail.

(1997 Code, § 1-704)

Statutory reference:

Related provisions, see Neb. RS 17-202

§ 30.05 GENERAL ELECTION; PREPARATION OF BALLOT.

(A) When more than one person becomes a candidate by filing, petition or write-in procedures for the same position in the primary, the County Clerk, in preparing the official ballot for the general election shall place thereon the names of the persons who received the greatest number of votes in the primary, but in no event shall the names on the general election ballot be more than twice the number of vacancies to be filled at the general election.

(B) The County Clerk shall place the names of the candidates on the general election ballot in the direct order according to the number of votes received at the primary election. If no primary election was held, the name of the candidates shall be placed upon the general election ballot in the order of their filing.

(1997 Code, § 1-705)

§ 30.06 JOINT; GENERAL.

(A) The general municipal election shall be held in accordance with the provisions of Neb. RS Chapter 32. The governing body has determined, by ordinance duly adopted, to hold the municipal election in conjunction with the statewide primary election, held on the first Tuesday after the second Monday in May of each even numbered year.

(B) Prior to February 1 of the year, in which the first such joint election takes place, the governing body shall receive the consent in writing of the County Board to so hold the election and such authorization shall be prescribed according to state law.

(C) The County Clerk shall have charge of the election and shall have the authority to deputize the Village Clerk for municipal election purposes.

(1997 Code, § 1-706)

Statutory reference:

Related provisions, see Neb. RS 32-505, 32-4147

§ 30.07 JOINT, GENERAL; NOTICE.

The County Clerk shall publish in a newspaper designated by the County Board the notice of the election no less than 40 days prior to the primary or general election. This notice will serve the notice requirement for all municipal elections which are held in conjunction with the county.

(1997 Code, § 1-707)

Statutory reference:

Related provisions, see Neb. RS 32-402.01

§ 30.08 SPECIAL ELECTIONS.

(A) (1) Except as provided in Neb. RS 77-3444, any issue to be submitted to the registered voters at a special election by the village shall be certified by the Village Clerk to the Election Commissioner or County Clerk at least 50 days prior to the election. A special election may be held by mail as provided in Neb. RS 32-952 through 32-959. Any other special election shall be subject to division (B) below.

(2) 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 Election Commissioner or County Clerk by March 1 for the primary election and by September 1 for the general election.

(3) After the Election Commissioner or County Clerk has received the certification of the issue to be submitted, he or she shall be responsible for all matters relating to the submission of the issue to the registered voters, except 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 Election Commissioner or County Clerk shall prepare the ballots and issue ballots for early voting 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 Election Commissioner or County Clerk. The ballots shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the County Canvassing Board, the Election Commissioner or County Clerk shall certify the election results to the Board of Trustees. The canvass by the County Canvassing Board shall have the same force and effect as if made by the Board of Trustees.

(B) Any special election under the Election Act, being Neb. RS 32-101 to 32-1551 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.

(1997 Code, § 1-708) (Ord. 172, passed 9-11-1984; Ord. 97-10, passed 6-10-1997; Ord. 02-04, passed 2-10-2004)

Statutory reference:

Related provisions, see Neb. RS 32-405, 32-559

§ 30.09 FILING FEE.

(A) Prior to the filing of any nomination papers, there shall be paid to the County Treasurer a filing fee which shall amount to 1% of the annual salary for the office for which the candidate will file; provided, there shall be no filing fee for any candidate filing for an office in which a per diem is paid rather than a salary, or an office for which there is a salary of less than \$500 per year.

(B) No nominating papers shall be filed until the proper County Treasurer's receipt, showing the payment of the filing fee, shall be presented to the election officer with whom the nomination papers are to be filed.

(1997 Code, § 1-709)

Statutory reference:

Related provisions, see Neb. RS 32-513

§ 30.10 PETITION, WRITE-IN AND OTHER CANDIDATES FOR GENERAL ELECTION BALLOT; PROCEDURES.

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

(2) Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot if a vacancy exists on the ballot under Neb. RS 32-625(2) and the candidate files for the office by petition as prescribed in divisions (B) and (C) below, or files as a write-in candidate as prescribed in Neb. RS 32-615, or is nominated by political party convention or committee pursuant to Neb.

RS 32-710.

(B) Petitions for nomination shall conform to the requirements of Neb. RS 32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. A sample copy of the petition shall be filed with the filing officer prior to circulation. Petitions shall be signed by registered voters residing in the municipality, if candidates are chosen at large, or in the ward in which the officer is to be elected, if candidates are chosen by ward, and shall be filed with the filing officer in the same manner as provided for candidate filing forms in § 30.17. Petition signers and petition circulators shall conform to the requirements of Neb. RS 32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing the payment of the filing fee required pursuant to Neb. RS 32-608. The petitions shall be filed by September 1 in the year of the general election.

(C) (1) The number of signatures of registered voters needed to place the name of a candidate upon the nonpartisan ballot for the general election shall be at least 10% of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election in the municipality or in the ward in which the officer is to be elected, not to exceed 2,000.

(2) The number of signatures of registered voters needed to place the name of a candidate upon the partisan ballot for the general election shall be at least 20% of the total vote for Governor or President of the United States at the immediately preceding general election within the municipality or in the ward in which the officer is to be elected, as appropriate, not to exceed 2,000.

(1997 Code, § 1-710) (Ord. 172, passed 9-11-1984; Ord. 02-03, passed 3-11-2003; Ord. 09-12, passed 2-14-2012)

Statutory reference:

Related provisions, see Neb. RS 32-616, 32-617, 32-618

§ 30.11 CAUCUS CANDIDATES.

(A) The governing body of the municipality may, by ordinance call a caucus for the purpose of nominating candidates for offices to be filled in the village election. Such caucus shall be held at least ten days prior to the filing deadline for such election. Notice of such caucus must be published in one newspaper of general circulation in the municipality, at least once in each of two consecutive weeks prior to said caucus.

(B) The Village Clerk shall notify the person so nominated of his or her nomination and such notification shall take place not less than five days after the said caucus.

(C) 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.

(1997 Code, § 1-711)

Statutory reference:

Related provisions, see Neb. RS 17-601.01 through 17-603

§ 30.12 VOTER QUALIFICATIONS.

ELECTORS shall mean every person of the constitutionally prescribed age or upwards, who shall have the right to vote for all officers to be elected to public office, and upon all questions and proposals, lawfully submitted to the voters at any and all elections authorized or provided for by the Constitution or the laws of the state, except school elections; provided, no person shall be qualified to vote at any election unless such person shall be a resident of the state and shall have been properly registered with the election official of the county.

(1997 Code, § 1-714)

Statutory reference:

Related provisions, see Neb. RS 17-602, 32-102

§ 30.13 BALLOTS.

The County Clerk shall provide printed ballots for every general municipal election and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the municipality.

(1997 Code, § 1-716)

Statutory reference:

Related provisions, see Neb. RS 32-417, 32-418

§ 30.14 RECALL PROCEDURE.

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a

different meaning.

FILING CLERK. The Election Commissioner or County Clerk.

(B) Any member of the Board of Trustees may be removed from office by recall pursuant to this section.

(C) (1) A petition demanding that the question of removing a member of the Board of Trustees be submitted to the registered voters shall be signed by registered voters equal in number to at least 45% of the total vote cast for the person receiving the most votes for that office in the last general election. The signatures shall be affixed to petition papers and shall be considered part of the petition.

(2) Petition circulators shall conform to the requirements of Neb. RS 32-629 and 32-630.

(3) The petition papers shall be procured from the filing clerk. Prior to the issuance of such petition papers, a recall petition filing form shall be signed and filed with the filing clerk by at least one registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The filing form shall state the name and office of the Trustee sought to be removed, shall include in concise language of 60 words or less the reason or reasons for which recall is sought, and shall request that the filing clerk issue initial petition papers to the principal circulator for circulation. The filing clerk shall notify the Trustee by any method specified in Neb. RS 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in Neb. RS 25-505.01, by leaving a copy of the filing form at the Trustee's usual place of residence and mailing a copy by first-class mail to the Trustee's last-known address. If the Trustee chooses, he or she may submit a defense statement in concise language of 60 words or less for inclusion on the petition. Any such defense statement shall be submitted to the filing clerk within 20 days after the Trustee receives the copy of the filing form. The filing clerk shall prepare the petition papers within five business days after receipt of the defense statement. The principal circulator or circulators shall gather the petition papers within 20 days after being notified by the filing clerk that the petition papers are available. The filing clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within 30 days from the date of issuing the petitions.

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

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

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

(E) (1) The principal circulator or circulators shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the filing clerk within 30 days after the filing clerk issues the initial petition papers to the principal circulator or circulators as provided in division (C) above.

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

(F) (1) If the recall petition is found to be sufficient, the filing clerk shall notify the Trustee whose removal is sought and the Board of Trustees that sufficient signatures have been gathered. Notification of the Trustee may be by any method specified in Neb. RS 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in Neb. RS 25-505.01, by leaving such notice at the Trustee's usual place of residence and mailing a copy by first-class mail to the Trustee's last-known address,

(2) The Board of Trustees shall order an election to be held not less than 50 nor more than 80 days after the notification of the Trustee whose removal is sought under division (F)(1) above, except that if any other election is to be held in the village within 90 days after such notification, the Board shall provide for the holding of the recall election on the same day. All resignations shall be tendered as provided in Neb. RS 32-562. If the Trustee whose removal is sought resigns before the recall election is held, the Board may cancel the recall election if the Board notifies the Election Commissioner or County Clerk of the cancellation at least 24 days prior to the election, otherwise the recall election shall be held as scheduled.

(3) If the Board of Trustees fails or refuses to order a recall election within the time required, the election may be ordered by the district court having jurisdiction over a county in which the Trustee serves. If a filing clerk is subject to a recall election, the Secretary of State shall conduct the recall election.

(G) The form of the official ballot at a recall election held pursuant to division (F) above shall conform to the requirements of Neb. RS 32-1307.

(H) (1) If a majority of the votes cast at a recall election are against the removal of the Trustee named on the ballot or

the election results in a tie, the Trustee shall continue in office for the remainder of his or her term but may be subject to further recall attempts as provided in division (I) below.

(2) If a majority of the votes cast at a recall election are for the removal of the Trustee named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the Trustee is deemed removed, the removal shall result in a vacancy in the office which shall be filled as otherwise provided in this section and Neb. RS 32-567 to 32-570.

(3) If the election results show a margin of votes equal to 1% or less between the removal or retention of the Trustee in question, the Secretary of State, Election Commissioner or County Clerk shall order a recount of the votes cast unless the Trustee files a written statement with the filing clerk that he or she does not want a recount.

(4) If there are vacancies in the offices of a majority or more of the members of the Board of Trustees at one time due to the recall of such members, a special election to fill such vacancies shall be conducted as expeditiously as possible by the Secretary of State, Election Commissioner or County Clerk.

(5) No Trustee who is removed at a recall election or who resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal or the removal of any other member of the Board of Trustees during the remainder of his or her term of office.

(I) No recall petition filing form shall be filed against an elected Trustee 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.

(1997 Code, § 1-719) (Ord. 172, passed 9-11-1984; Ord. 98-06, passed 7-14-1998; Ord. 99-06, passed 6-8-1999; Ord. 04-03, passed 3-11-2003; Ord. 03-04, passed 2-10-2004; Ord. 10-12, passed 2-14-2012)

Statutory reference:

Related provisions, see Neb. RS 32-1301, 32-1302, 32-1303, 32-1305, 32-1306, 32-1308, 32-1309

§ 30.15 BOARD OF TRUSTEES; TERMS; QUALIFICATIONS.

(A) The members of the Village Board of Trustees shall be elected from the municipality at large unless the registered voters of the municipality have voted to elect its Board members by wards.

(B) The members of the Village Board of Trustees shall be elected at the statewide general election as provided in Neb. RS 17-202, and each four years thereafter. Except as provided in such section, the term of each Trustee shall be four years or until his or her successor is elected and qualified.

(C) Any person may be a Trustee who is a citizen of the United States, resides in the village and is a registered voter.

(1997 Code, § 1-720) (Ord. 172, passed 9-11-1984; Ord. 95-20, passed 12-12-1995)

Statutory reference:

Related provisions, see Neb. RS 17-202, 17-203, 32-532, 32-554

§ 30.16 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 of any polling place room or, if inside the polling place building, within 100 feet of any voting booth.

(1997 Code, § 1-721) (Ord. 185, passed 9-10-1985) Penalty, see §30.99

Statutory reference:

Related provisions, see Neb. RS 32-1221

§ 30.17 CANDIDATE FILING FORMS; DEADLINES; FILING OFFICER.

(A) Any candidate for the Board of Trustees may place his or her name on the general election ballot by filing a candidate filing form prescribed by the Secretary of State as provided in division (B) below. If a candidate is an incumbent of an elective office, the filing period for filing the candidate filing form shall be between December 1 and July 15 prior to the date of the primary election. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after February 15 of that election year. All other candidates shall file for office between December 1 and August 1 prior to the date of the general election.

(B) Candidate filing forms shall be filed in the office of the Election Commissioner or County Clerk.

(1997 Code, § 1-722) (Ord. 08-12, passed 2-14-2012)

Statutory reference:

Related provisions, see Neb. RS 32-606, 32-607

ORDINANCES, RESOLUTIONS AND MOTIONS

§ 30.30 GRANT OF POWER.

The governing body may make all ordinances, bylaws, rules, regulations and resolutions, not inconsistent with the laws of the state, as may be expedient for maintaining the peace, good government and welfare of the municipality and its trade, commerce and manufactures.

(1997 Code, § 1-601) (Ord. 97-04, passed 6-10-1997)

Statutory reference:

Related provisions, see Neb. RS 17-505

§ 30.31 INTRODUCTION.

Ordinances shall be introduced by members of the governing body in one of the following ways:

(A) With the recognition of the Chairperson, a member may, in the presence and hearing of a majority of the members elected to the governing body, read aloud the substance of the proposed ordinance and file a copy with the Village Clerk/Superintendent for future consideration; or

(B) With the recognition of the Chairperson, a member may present the proposed ordinance to the Clerk who, in the presence and hearing of a majority of the members elected to the governing body, shall read aloud the substance of the ordinance and file it for future consideration.

(1997 Code, § 1-602) (Ord. 97-05, passed 6-10-1997)

§ 30.32 PROCEDURE.

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 members elected to the Board. The issue 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. A majority vote shall be required to pass any resolution or motion. The vote on any resolution or motion shall be by roll call vote.

(1997 Code, § 1-603)

§ 30.33 STYLE.

The style of all Municipal ordinances shall be: "Be it ordained by the Chairperson and Board of Trustees of the Village of Loomis, Nebraska:".

(1997 Code, § 1-604)

Statutory reference:

Related provisions, see Neb. RS 17-613

§ 30.34 TITLE.

No ordinance shall contain a subject not clearly expressed in its title.

(1997 Code, § 1-605)

Statutory reference:

Related provisions, see Neb. RS 17-614

§ 30.35 ORDERS; BYLAWS; READING; PASSAGE.

(A) Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the governing body vote to suspend this requirement, except that such requirement shall not be suspended for any ordinance for the annexation of territory.

(B) In case such requirement is suspended, the ordinance shall be read by title and then moved for final passage. Three-fourths of the governing body may require a reading of any ordinance in full before enactment under either procedure set out in this section.

(C) All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the governing body. On the passage or adoption of every bylaw or ordinance, and every resolution or order to enter into a contract by the governing body, the 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 governing body shall be required.

(D) All appointments of the officers by the governing body shall be made viva voce; and 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.

(E) The requirements of a roll call or viva voce vote shall be satisfied by a municipality which utilizes an electronic voting device which allows the yeas and nays of each member of the governing body to be readily seen by the public.

(1997 Code, § 1-606) (Ord. 95-03, passed 3-14-1995; Ord. 97-06, passed 6-10-1997)

Statutory reference:

Related provisions, see Neb. RS 17-614, 17-616

§ 30.36 PUBLICATION OR POSTING.

All ordinances of a general nature shall, before they take effect, be published one time, within 15 days after they are passed:

(A) In some newspaper published in the municipality or, if no paper is published in the municipality, then by posting a written or printed copy in each of three public places in the municipality; or

(B) In book or pamphlet form.

(1997 Code, § 1-607) (Ord. 195, passed 9-9-1986; Ord. 97-07, passed 6-10-1997)

Statutory reference:

Related provisions, see Neb. RS 17-613

§ 30.37 CERTIFICATE OF PUBLICATION OR POSTING.

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

(1997 Code, § 1-608)

Statutory reference:

Related provisions, see Neb. RS 17-613

§ 30.38 EFFECTIVE DATE; EMERGENCY ORDINANCES.

(A) Except as provided in division (B) below, an ordinance for the government of the municipality which has been adopted by the governing body without submission to the voters of the municipality shall not go into effect until 15 days after the passage of the ordinance.

(B) (1) In the case of riot, infectious or contagious diseases, or other impending danger, failure of a public utility, or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the Chairperson and the posting thereof in at least three of the most public places in the municipality.

(2) Such emergency ordinance shall recite the emergency, be passed by a three-fourths vote of the governing body, and be entered of record on the Village Clerk's minutes.

(1997 Code, § 1-609) (Ord. 97-08, passed 6-10-1997)

Statutory reference:

Related provisions, see Neb. RS 17-613, 19-3701

§ 30.39 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 is repealed, except that an ordinance revising all the ordinances of the municipality and modifications to zoning or building districts may be adopted as otherwise provided by law.

(1997 Code, § 1-610) (Ord. 97-09, passed 6-10-1997)

Statutory reference:

Related provisions, see Neb. RS 17-614

MUNICIPAL DUMPING GROUNDS

§ 30.50 OPERATION AND FUNDING.

The municipality owns and operates the municipal dumping grounds through the Utilities Superintendent. The governing body, for the purpose of defraying the cost of the care, management and maintenance of the municipal dumping grounds may each year levy a tax not to exceed 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 Dump Fund and shall remain in the custody of the Municipal Treasurer. The Utilities Superintendent shall have the direct management and control of the municipal dump and shall faithfully carry out the duties of his or her position. The Utilities Superintendent shall have the authority to adopt rules and regulations for the sanitary and efficient management of the dumping grounds subject to the supervision and review of the governing body. The governing body shall provide by ordinance for the management and operation of the dumping grounds. It shall be unlawful for anyone not a resident of the village to use the municipal dumping grounds.

(1997 Code, § 3-501) Penalty, see § 30.99

Statutory reference:

Related provisions, see Neb. RS 19-2101 through 19-2106

§ 30.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and, upon conviction thereof, shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) 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.

(1997 Code, § 3-701)

(C) Any non-resident who uses the municipal dumping grounds in violation of §30.50 shall be subject to a \$100 fine.

(1997 Code, § 3-501)

(Ord. 00-12, passed 6-13-2000)

Statutory reference:

Related provisions, see Neb. RS 17-207, 17-505, 18-1720, 18-1722

CHAPTER 31: OFFICIALS AND EMPLOYEES

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ELECTED OFFICIALS

§ 31.001 VILLAGE BOARD CHAIRPERSON; SELECTION AND DUTIES.

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

(1997 Code, § 1-101) (Ord. 95-15, passed 2-12-1995)

Statutory reference:

Related provisions, see Neb. RS 17-202 through 17-210

§ 31.002 ORGANIZATION.

The Board of Trustees shall consist of five members. Any person who is a citizen of the United States, a resident of the municipality at the time of his or her election, and a registered voter may be eligible to be elected to the Board of Trustees. 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 municipality. The Board of Trustees shall, before entering upon the duties of their office, take an oath to support the Constitution of the United States, and the Constitution of the state, and faithfully and impartially discharge the duties of their office. All Trustees elected to office shall qualify and meet at the first regular meeting of the Board in December, organize and appoint the municipal officers required by law.

(1997 Code, § 1-102) (Ord. 95-16, passed 12-12-1995)

Statutory reference:

Related provisions, see Neb. RS 17-202 through 17-204

§ 31.003 BOARD; 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 erect, repair and regulate wharves and the rates of wharfage; to regulate the landing of watercraft; 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.

(B) The village has the power and authority by ordinance to define, regulate, suppress and prevent nuisances, and 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.

(1997 Code, § 1-103) (Ord. 00-11, passed 6-13-2000)

Statutory reference:

Related provisions, see Neb. RS 17-207, 18-1720

§ 31.004 VACANCY.

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

(B) Except as otherwise provided in divisions (D) or (E) below, vacancies in village elected offices shall be filled by Board of Trustees for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of 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 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 Chairperson of the Board shall call a special meeting of the Board or place the issue of filling such vacancy on the agenda at the next regular meeting, at which time the Chairperson shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term.

(1) The regular or special meeting shall occur upon the death of the incumbent, or within four weeks after the meeting at which such notice of vacancy has been presented.

(2) The Board shall vote upon such nominee, and if a majority votes in favor of such nominee, the vacancy shall be declared filled.

(3) If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the Chairperson shall, at the next regular or special meeting, submit the name of another qualified registered voter to fill the vacancy.

(4) If the subsequent nominee fails to receive a majority of the votes, the Chairperson shall continue at such meeting to submit the names of qualified registered voters in nomination, and the Board shall continue to vote upon such nominations at such meeting until the vacancy is filled.

(5) All Trustees present shall cast a ballot for or against the nominee.

(6) 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 Chairperson and Board of Trustees may, in lieu of filling vacancy in a village elected office as provided in division (B) above, call a special election to fill such vacancy.

(E) If vacancies exist in the offices of a majority of the members the Board of Trustees, the Secretary of State shall conduct a special village election to fill those vacancies.

(F) No official who is removed at a recall election or resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal or the removal of any other member of the same governing body during the remainder of his or her term of office.

(1997 Code, § 1-104) (Ord. 170, passed 9-11-1984; Ord. 1-90, passed 12-11-1990; Ord. 98-05, passed 7-14-1998)

Statutory reference:

Related provisions, see Neb. RS 32-560 through 32-572, 32-1308

§ 31.005 UNEXCUSED ABSENCES.

(A) In addition to the events listed in Neb. RS 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 of the Board unless the absences are excused by a majority vote of the remaining members.

(B) The Board of Trustees shall take a vote on whether to excuse a member's absence from a meeting upon either:

(1) A written request from the member submitted to the Village Clerk; or

(2) A motion of any other Board member.

(C) If a member has been absent from six consecutive regular meetings and none of the absences have been excused by a majority vote of the remaining members, the Village Clerk shall include this as an item on the agenda for the next regular meeting. At that meeting, the Board shall set a date for a hearing and direct the Village Clerk to give the member notice of the hearing by personal service or first class mail to the member's last-known address.

(D) At the hearing, the Board member shall have the right to present information on why one or more of the absences should be excused. If the Board does not excuse one or more of the member's absences by a majority vote at the conclusion of the hearing, there shall be a vacancy on the Board.

(1997 Code, § 1-105) (Ord. 01-03, passed 3-11-2003)

Statutory reference:

Related provisions, see Neb. RS 19-3101

APPOINTED OFFICIALS

§ 31.020 APPOINTMENT; TERMS; REMOVAL; POWERS; DUTIES.

(A) (1) The Board of Trustees may appoint a Village Clerk, Treasurer, Attorney, Overseer of the Streets and Marshal or Chief of Police, and other such officers as shall be required by ordinance or otherwise required by law. Pursuant to division (A)(2) below, the Village Marshal or Chief of Police or any other police officer may appeal to the Village Board his or her removal, demotion or suspension with or without pay. After a hearing, the Village Board may uphold, reverse or modify the action.

(2) The Village Board of Trustees shall by ordinance adopt rules and regulations governing the removal, demotion or suspension with or without pay of any police officer, including the Village Marshal or Chief of Police, in accordance with the requirements of Neb. RS 17-208. Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer by the appropriate authority, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty or disobedience of orders.

(3) Division (A)(2) above does not apply to a police officer during his or her probationary period.

(B) The Village Clerk, Treasurer, Attorney, Overseer of the Streets, members of the Board of Health, and other appointed officers, except regular police officers, shall hold office for one year unless removed by the Chairperson of the Village Board with the advice and consent of the Trustees.

(C) (1) The village may enact ordinances or bylaws to regulate and prescribe the powers and duties of officers not provided for in state law.

(2) If the Board of Trustees appoints any of the officials specified in this chapter or any other officials, the officials shall have the powers and duties, if any, provided in this chapter or as otherwise provided by village ordinances and state law.

(1997 Code, § 1-201) (Ord. 97-03, passed 6-10-1997; Ord. 06-12, passed 2-14-2012)

Statutory reference:

Related provisions, see Neb. RS 17-604, 17-208

§ 31.021 MERGER OF OFFICES.

The governing body 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, except that Trustees may perform and upon Board approval receive compensation for seasonal or emergency work subject to Neb. RS 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.

(1997 Code, § 1-202) (Ord. 171, passed 9-11-1984; Ord. 2-90, passed 12-11-1990)

Statutory reference:

Related provisions, see Neb. RS 17-209.02, 49-14,103.01 through 49-14,103.06

§ 31.022 CLERK-TREASURER POSITION CREATED.

(A) The appointive offices of Village Clerk and Municipal Treasurer are hereby combined and merged, in accordance with the authority granted to the governing body by § 31.021.

(B) The office 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.

(C) 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.

(1997 Code, § 1-203)

§ 31.023 VILLAGE CLERK.

(A) 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 the Records Management Act, the Clerk may transfer the journal of the proceedings of the Board of Trustees to the State Archives of the Nebraska State Historical Society for permanent preservation. The Clerk shall also perform such other duties as may be required by the ordinances of the village.

(B) (1) It shall be the duty of the Clerk to prepare and publish the official proceedings of the Board of Trustees within 30

days after any meeting of the Board. The publication shall be in a newspaper of general circulation in the village, shall set forth a statement of the proceedings of the meeting, 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. 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 the publication shall not exceed the rates provided for in Neb. RS 23-122.

(2) Publication under division (B)(1) shall be made in one legal newspaper of general circulation in the village. If no legal newspaper is published in the village, then the publication shall be made in one legal newspaper published or of general circulation within the county in which the village is located. The cost of publication shall be paid out of the general funds of the village.

(C) The Clerk shall dispose of or destroy village public records when the records have been determined to be of no further legal, administrative, fiscal or historical value by the State Records Administrator pursuant to Neb. RS 84-1201 through 84-1220, provided the provisions of this division (C) shall not apply to the minutes of the Clerk and the permanent ordinance and resolution books, or any other record classified as permanent by the State Records Administrator.

(D) (1) The Clerk shall permit any person to examine and copy the public records in the Clerk's custody, and may charge a fee for providing copies of a public record, as provided in Neb. RS 84-712 through 84-712.09.

(2) The Clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution of the Board of Trustees.

(E) The Clerk shall permit no records, public papers or other documents of the village kept and preserved in his or her 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, and except pursuant to Neb. RS 84-712(2). He or she shall keep all the records of his or her office, including a record of all licenses issued by him or her, in a blank book with a proper index. He or she shall include as part of his or her records all petitions under which the Board of Trustees 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 made by him or her shall be properly docketed. Included in his or her records shall be all standard codes, amendments thereto and other documents incorporated by reference and arranged in triplicate in a manner convenient for reference. He or she 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 fund from which the same is payable. At the end of each month, he or she shall then make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon.

(F) The Clerk shall deliver all warrants, ordinances and resolutions under his or her charge to the Chairperson for his or her signature. He or she shall also deliver to officers, employees and committees all resolutions and communications which are directed at such officers, employees or committees. With the seal of the village, he or she shall duly attest the Mayor's signature to all ordinances, deeds and papers required to be attested to when ordered to do so by the Board of Trustees.

(G) The Clerk shall issue and sign all licenses, permits and occupation tax receipts authorized by law and required by the village ordinances. He or she shall collect all occupation taxes and license money, except where some other village officer is specifically charged with that duty. He or she shall keep a register of all licenses granted in the village and the purpose for which they have been issued.

(H) The Clerk shall keep in a book with a proper index, copies of all notices required to be published or posted by the Clerk by order of the Board of Trustees or under the ordinances of the village. To each of the file copies of the notices shall be attached the printer's affidavit of publication, if the notices are required to be published, or the Clerk's certificate under seal where the same are required to be posted only.

(I) The 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 the claim is disallowed in part or in whole, the Clerk shall notify the claimant or his or her agent or attorney by letter within five days after the disallowance, and the Clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

(1997 Code, § 1-204) (Ord. 1-93, passed 2-9-1993; Ord. 08-14, passed 3-11-2014)

Statutory reference:

Related provisions, see Neb. RS 17-605, 18-1701, 19-1102, 19-1103

§ 31.024 VILLAGE TREASURER.

(A) (1) The Village Treasurer shall be the custodian of all money belonging to the village. He or she shall keep 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. The Treasurer shall, at the end of every month, and as often as may be required, render an account to the Board of Trustees, 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 by him or her, which warrants, with any and all vouchers held by him or her, shall be filed with his or her account in the Village Clerk's office. If the Treasurer fails to render his or her account within 20 days after the end of the month, or by a later date established by the

Board of Trustees, the Chairperson with the advice and consent of the Board may use this failure as cause to remove the Treasurer from office.

(2) 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. The Treasurer shall accompany the annual statement submitted pursuant to Neb. RS 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.

(B) (1) The Treasurer shall prepare and publish annually within 60 days after the close of the village fiscal year a statement of the receipts and expenditures of funds of the village for the preceding fiscal year. The statement shall also include the information required by Neb. RS 16-318(3) or 17-606(2). Not more than the legal rate provided for in Neb. RS 33-141 shall be charged and paid for such publication.

(2) Publication shall be made in one legal newspaper of general circulation in the village. If no legal newspaper is published in the village, then such publication shall be made in one legal newspaper published or of general circulation within the county in which the village is located.

(C) (1) All warrants upon the Treasurer shall be paid in the order of their presentation therefor and as otherwise provided in Neb. RS 77-2201 through 77-2215.

(2) The Treasurer shall keep a warrant register, which register shall show in columns arranged for that purpose the number, the date and the amount of each warrant presented and registered, the particular fund upon which the same is drawn, the date of presentation, the name and address of the person in whose name the warrant is registered, the date of payment, the amount of interest and the total amount paid thereon, with the date when notice to the person in whose name such warrant is registered is mailed.

(3) The Treasurer shall make duplicate receipts for all sums which shall be paid into his or her office, which receipts shall show the source from which such funds are derived, and shall, by distinct lines and columns, show the amount received to the credit of each separate fund, and whether the same was paid in cash, in warrants or otherwise. The Treasurer shall deliver one of the duplicates to the person making the payment and retain the other in his or her office.

(4) The Treasurer shall daily, as money is received, foot the several columns of the cash book and of the register, and carry the amounts forward, and at the close of each year, in case the amount of money received by the Treasurer is insufficient to pay the warrants registered, he or she shall close the account for that year in the register and shall carry forward the excess.

(5) The cash book, register and retained receipts of the Treasurer shall at all times be open to the inspection of any person in whose name any warrants are registered and unpaid.

(D) The Treasurer shall permit any person to examine and copy the public records in the Treasurer's custody, and may charge a fee for providing copies of a public record, as provided in Neb. RS 84-712 through 84-712.09.

(E) The Treasurer shall keep all money belonging to the village separate and distinct from his or her own money. He or she shall cancel all bonds, coupons, warrants and other evidences of debt against the village, whenever paid by him or her, by writing or stamping on the face thereof, "Paid by the Village Treasurer," with the date of payment written or stamped thereon. He or she shall collect all special taxes, allocate special assessments to the several owners, and obtain from the County Treasurer a monthly report as to the collection of delinquent taxes.

(1997 Code, § 1-207) (Ord. 02-02, passed 3-12-2002; Ord. 06-14, passed 3-11-2014)

Statutory reference:

Related provisions, see Neb. RS 17-606, 19-1101, 19-1103, 77-2201, 77-2202, 77-2209, 77-2210, 77-2212

§ 31.025 MUNICIPAL ATTORNEY.

The Municipal Attorney is the municipality's legal advisor, and as such he or she shall commence, prosecute and defend all suits on behalf of the municipality. When requested by the governing body, he or she shall attend meetings of the governing body, and shall advise any municipal official in all matters of law in which the interests of the municipality may be involved. He or she shall draft such ordinances, bonds, contracts and other writings as may be required in the administration of the affairs of the municipality. He or she shall examine all bonds, contracts and documents on which the governing body will be required to act, and attach thereto a brief statement in writing to all such instruments, and documents as to whether or not the document is in legal and proper form. He or she shall prepare complaints, attend and prosecute violations of the municipal ordinances when directed to do so by the governing body. Without direction, he or she shall appear, and prosecute all cases for violation of the municipal ordinances that have been appealed to, and are pending in any higher court. He or she shall also examine, when requested to do so by the governing body, the ordinance records, and advise, and assist the Village Clerk as much as may be necessary to the end that each procedural step will be taken in the passage of each ordinance to ensure that they will be valid, and subsisting local laws in so far as their passage, and approval are concerned. The governing body shall have the right to compensate the Municipal Attorney for legal services on such terms as the governing body and the Municipal Attorney may agree, and to employ any additional legal assistance as may be necessary out of the funds of the municipality.

(1997 Code, § 1-208)

Statutory reference:

Related provisions, see Neb. RS 17-610

§ 31.026 MUNICIPAL PHYSICIAN.

(A) The Municipal Physician shall be a member of the Board of Health of the municipality, and perform the duties devolving upon him or her as the medical advisor of the said Board. In all injuries where a liability may be asserted against the municipality, the Municipal Physician shall immediately investigate the said injuries, the extent thereof, and the circumstances. He or she shall then report the results of his or her investigation with the name of the party injured, and all other persons who may have personal knowledge of the matter.

(B) He or she shall make all physical examinations, and necessary laboratory tests incident thereto, and issue such health certificates as are required by ordinance. For the purpose of making examinations of the sanitary conditions of the property, and the state of health of the inhabitants therein, he or she shall have the right at all reasonable hours to go upon, and enter all premises, buildings or other structures in the municipality. He or she shall perform such other duties as may be required of him or her by the laws of the state, and the ordinances of the municipality.

(C) When ordered to do so by the governing body, he or she shall disinfect, or fumigate the premises, or persons in or about the premises, when the premises are quarantined, and to call upon indigent sick persons, and perform other professional services at the direction of the governing body. The Municipal Physician shall receive as compensation for his or her services such sum as the governing body may from time to time set. He or she shall receive no compensation for his or her services as a member of the Municipal Board of Health.

(1997 Code, § 1-209)

Statutory reference:

Related provisions, see Neb. RS 17-208

§ 31.027 SPECIAL ENGINEER.

(A) The governing body may employ a special engineer to make or assist the Municipal Engineer in making any particular estimate, survey or other work. The special engineer shall make a record of the minutes of his or her surveys and all other work done for the municipality. He or she shall, when directed by the governing body, accurately make all plats, sections, profiles and maps as may be necessary in the judgment of the governing body. He or she shall, upon request of the governing body, make estimates of the costs of labor and material which may be done or furnished by contract with the municipality, and make all surveys, estimates and calculations necessary for the establishment of grades, bridges or culverts and for the building, constructing or repairing of any public improvement of the municipality.

(B) All records of the special engineer shall be public records which shall belong to the municipality, and shall be turned over to his or her successor. He or she shall, when directed by the governing body, inspect all works of public improvement, and if found to be properly done, shall accept the same, and report his or her acceptance to the governing body. He or she shall estimate the cost of all proposed municipal utilities and public improvements, together with any extensions thereof which the governing body may propose to construct or improve.

(1997 Code, § 1-212)

Statutory reference:

Related provisions, see Neb. RS 17-405, 17-568, 17-919

§ 31.028 MUNICIPAL UTILITIES SUPERINTENDENT.

(A) A Utilities Superintendent shall be appointed in the event that there is more than one municipal utility, and the governing body determines that it is in the best interest of the municipality to appoint one official to have the immediate control over all the said municipal utilities, municipal streets and municipal dumping grounds.

(B) The Utilities Superintendent may be removed at any time by the Chairperson with the consent of the governing body. Any vacancy occurring in the said office by death, resignation or removal may be filled in the manner hereinbefore provided for the appointment of all municipal officials.

(C) The Utilities Superintendent's duties over the following departments shall be as stated herein:

(1) *Water Department.* He or she shall have general supervision and control over the municipal 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 municipality. All actions, decisions and procedures of the Utilities Superintendent shall be subject to the general directives and control of the governing body. The Utilities Superintendent shall have the general control and supervisory authority over all employees of the water system which the governing body may from time to time hire to operate and maintain the said system. He or she shall make a detailed report to the governing body 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 or she 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. The Utilities Superintendent shall provide a bond conditioned upon the faithful discharge of his or her duties which shall amount to not less than the amount set by resolution of the governing body and on file in the office of the Village Clerk. He or she shall perform such additional duties as may be prescribed by the governing body.

(2) *Sewer Department.* The Utilities Superintendent shall have the immediate control, and supervision over all the employees, and property that make up the municipal sewer system, subject to the general control, and directives of the governing body. He or she shall at least every six months, make a detailed report to the governing body on the condition of the sewer system, and shall direct their attention to such improvements, repairs, extensions, additions and additional employees as he or she may believe are needed along with an estimate of the cost thereof. He or she shall have such other duties as the governing body may delegate to him or her. He or she shall issue permits for all connections to the municipal sewer system, and inspect and supervise all repairs made to the said system.

(3) *Street Department.* The Utilities Superintendent shall, subject to the orders, and directives of the governing body, have general charge, direction and control of all work on the streets, sidewalks, culverts and bridges of the municipality, and shall perform such other duties as the governing body may require. It shall be his or her responsibility to see that gutters and drains therein function properly, and that the same are kept in good repair. He or she shall, at the request of the governing body, make a detailed report to the governing body on the condition of the streets, sidewalks, culverts, alleys and bridges of the municipality, and shall direct their attention to such improvements, repairs, extensions, additions and additional employees as he or she may believe are needed to maintain a satisfactory street system in the municipality along with an estimate of the cost thereof. He or she shall issue such permits, and assume such other duties as the governing body may direct.

(4) *Dumping grounds.* The Utilities Superintendent shall have the immediate control and supervision of the municipal dumping grounds, and all dumping of garbage, refuse, waste and rubbish thereon, subject to the general control and directives of the governing body. He or she shall at least every six months, make a detailed report to the governing body on the condition of the dumping grounds, and shall direct their attention to such improvements, additions and additional employees as he or she may believe are needed along with an estimate of the cost thereof. He or she shall issue dumping permits if the governing body should require them and shall inspect and supervise all work done to improve or extend the dumping grounds. He or she shall have such other duties as the governing body may delegate to him or her, including the collection of garbage within the municipality.

(1997 Code, § 1-213)

Statutory reference:

Related provisions, see Neb. RS 17-214, 17-541, 17-543

BONDS AND OATH

§ 31.045 REQUIREMENTS.

(A) The village may enact ordinances or bylaws to require from all officers and servants, elected or appointed, bonds and security or evidence of equivalent insurance for the faithful performance of their duties. The village may pay the premium for such bonds or insurance coverage.

(B) (1) All official bonds of officers of the village shall be in form joint and several and made payable to the village in such penalty as the Board of Trustees may fix.

(2) In place of the individual bonds required to be furnished by municipal officers, a schedule, position, blanket bond or undertaking, or evidence of equivalent insurance may be given by municipal officers, or a single corporate surety fidelity, schedule, position or blanket bond or undertaking, or evidence of insurance coverage covering all the officers, including officers required by law to furnish an individual bond or undertaking, may be furnished. The municipality 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 Board of Trustees, and with such terms and conditions as may be required.

(3) The penalty amount on any bond shall not fall below the legal minimum, when one has been set by the state, for each particular official.

(C) (1) Official bonds, with the oath endorsed thereon, shall be filed in the Village Clerk's office within the following time:

(a) Of all officers elected at any general election, following receipt of their election certificate and not later than ten days before the first Thursday after the first Tuesday in January next succeeding the election;

(b) Of all appointed officers, within 30 days after their appointment; and

(c) Of officers elected at any special election and village officers, within 30 days after the canvass of the votes of the election at which they were chosen.

(2) The filing of the bond with the oath endorsed thereon does not authorize a person to take any official action prior to the beginning of his or her term of office pursuant to Article XVII, § 5, of the Constitution of Nebraska.

(D) All official bonds of village officers shall be executed by the principal named in such bonds and by at least two sufficient sureties who shall be freeholders of the county in which such bonds are given, or any official bond of a village officer may be executed by the officer as principal and by a guaranty, surety, fidelity or bonding company as surety, or by two

or more such companies. Only such companies as are legally authorized to transact business in this state shall be eligible to suretyship on the bond of a village officer.

(E) The Village Clerk shall carefully record and preserve the bonds in his or her office and shall give certified copies thereof, when required, under the seal of his or her office, and shall be entitled to receive for the same the usual fee allowed by law for certified copies of records in other cases.

(F) (1) The approval of each official bond shall be endorsed upon such bond by the officer approving the same, and no bond shall be filed and recorded until so approved.

(2) No bond shall be deemed to be given or complete until the approval of the Board of Trustees and all sureties are endorsed in writing on the instrument by the Chairperson and Village Clerk pursuant to the approval of the Board of Trustees.

(G) All official 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 any persons injured by a breach of the conditions of such bonds.

(H) No official bond shall be rendered void by reason of any informality of irregularity in its execution or approval.

(I) No village official shall be taken as security on the bond of any administrator, executor or other officer from whom by law bond is or may be required.

(J) If any person elected or appointed to any office neglects to have his or her official bond executed and approved as provided by law and filed for record within the time limited by this section, the Village Clerk shall immediately issue an order to such person to show cause why he or she has failed to properly file such bond and why his or her office should not be declared vacant.

(1) If such person properly files the official bond within ten days of the issuance of the show cause order for appointed officials or before the date for taking office for elected officials, such filing shall be deemed to be in compliance with this section.

(2) If such person does not file the bond within ten days of the issuance of such order for appointed officials or before the date for taking office for elected officials and sufficient cause is not shown within that time, his or her office shall thereupon ipso facto become vacant and such vacancy shall thereupon immediately be filled by election or appointment as the law may direct in other cases of vacancy in the same office.

(K) Any person appointed to fill a vacancy, before entering upon the duties of the office, must give a bond corresponding in substance and form with the bond required of the officer originally elected or appointed, as herein provided.

(L) When the incumbent of an office is reelected or reappointed, he or she shall qualify by taking the oath and giving the bond as above directed, but when such officer has had public funds or property in his or her control, his or her bond shall not be approved until he or she has produced and fully accounted for such funds and property. When it is ascertained that the incumbent of an office holds over by reason of the nonelection or nonappointment of a successor or of the neglect or refusal of the successor to qualify, he or she shall qualify anew within ten days from the time at which his or her successor, if elected, should have qualified.

(M) No person shall be surety for the same officer for more than two successive terms of the same office, but this provision shall not apply to incorporated surety companies.

(N) If the sureties on the official bond of any appointed officer of the village, in the opinion of the Board of Trustees, become insufficient, the Board may, by resolution, fix a reasonable time within which the officer may give a new bond or additional sureties as directed. If the officer fails, refuses or neglects to give a new bond or additional sureties to the satisfaction and approval of the Board, 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 office.

(1997 Code, § 1-301) (Ord. 09-14, passed 3-11-2014)

Statutory reference:

Related provisions, see Neb. RS 11-104, 11-105, 11-109, 11-110, 11-111, 11-112, 11-113, 11-114, 11-115, 11-116, 11-117, 11-118, 17-604

§ 31.046 MUNICIPAL OFFICIALS.

All officials of the municipality, 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 will faithfully and impartially perform the duties of the office of _____, according to law, and to the best of my ability. 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.”

(1997 Code, § 1-302)

Statutory reference:

Related provisions, see Neb. RS 11-101

COMPENSATION

§ 31.060 MUNICIPAL OFFICIALS.

(A) The compensation of any elective official of the municipality shall not be increased or 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 governing body, 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.

(B) 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.

(C) He or she may be rehired after the term of office during which he or she resigned at a greater salary. All salaries shall be set by ordinance of the governing body and will be available for public inspection at the office of the Village Clerk.

(1997 Code, § 1-901)

Statutory reference:

Related provisions, see Neb. RS 7-209.02, 17-612

§ 31.061 CONFLICT OF INTEREST INVOLVING CONTRACTS.

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS ASSOCIATION.

(a) A business:

1. In which the individual is a partner, limited liability company member, director or officer; or

2. In which the individual or a member of the individual's immediate family is a stockholder of closed corporation stock worth \$1,000 or more at fair market value or which represents more than a 5% equity interest or is a stockholder of publicly traded stock worth \$10,000 or more at fair market value or which represents more than 10% equity interest.

(c) An individual who occupies a confidential professional relationship protected by law shall be exempt from this definition. This definition shall not apply to publicly traded stock under a trading account if the filer reports the name and address of the stockbroker.

IMMEDIATE FAMILY. A child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes.

OFFICER.

(a) A member of any board or commission of the municipality which spends and administers its own funds, who is dealing with a contract made by such board or commission; or

(b) Any elected municipal official; and

(c) **OFFICER** does not mean volunteer firefighters or ambulance drivers with respect to their duties as firefighters or ambulance drivers.

(B) (1) Except as provided in Neb. RS 49-1499.04 or 70-624.04, no officer may have an interest in any contract to which his or her governing body, or anyone for its benefit, is a party. The existence of such an interest in any contract shall render the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment of such contract with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the County Attorney, the governing body or any resident within the jurisdiction of the governing body and shall be brought within one year after the contract is signed or assigned. The 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 governing body has benefitted thereby.

(2) The prohibition in this division (B) shall apply only when the officer or his or her parent, spouse or child:

(a) Has a business association with the business involved in the contract; or

(b) Will receive a direct pecuniary fee or commission as a result of the contract.

(C) Division (B) above does not apply if the contract is an agenda item approved at a meeting of the governing body and

the interested officer:

(1) Makes a declaration on the record to the governing 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 matters of granting the contract, making payments pursuant to the contract, or accepting performance of work under the contract, or similar matters relating to the contract, except that if the number of members of the governing 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 matters; and

(3) Does not act for the governing body which is a party to the contract as to inspection or performance under the contract in which he or she has an interest.

(D) An officer who:

(1) Has no business association with the business involved in the contract; or

(2) Will not receive a direct pecuniary fee or commission as a result of the contract shall not be deemed to have an interest within the meaning of this section.

(E) The receiving of deposits, cashing of checks and buying and selling of warrants and bonds of indebtedness of any such governing body by a financial institution shall not be considered a contract for purposes 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.

(F) If an officer's parent, spouse or child is an employee of the officer's governing body, the officer may vote on all issues of the contract which are generally applicable to:

(1) All employees; or

(2) All employees within a classification and do not single out his or her parent, spouse or child for special action.

(G) Neb. RS 49-14,102 does not apply to contracts covered by this section.

(H) (1) The person charged with keeping records for the governing body shall maintain separately from other records a ledger containing the information listed in divisions (H)(1)(a) through (H)(1)(e) below about every contract entered into by the governing body in which an officer of the body has an interest and for which disclosure is made pursuant to division (C) 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:

(a) Names of the contracting parties;

(b) Nature of the interest of the officer in question;

(c) Date that the contract was approved by the governing body;

(d) Amount of the contract; and

(e) Basic terms of the contract.

(2) The information supplied relative to the contract shall be provided no later than ten days after the contract has been signed by both parties. The ledger kept pursuant to this division (H) shall be available for public inspection during the normal working hours of the office in which it is kept.

(I) An open account established for the benefit of any governing body with a business in which an officer has an interest shall be deemed a contract subject to this section. The statement required to be filed by division (H) above shall be filed within ten days after such account is opened. Thereafter, the person charged with keeping records for the governing body shall maintain a running account of amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to this section.

(J) Notwithstanding divisions (A) through (I) above, the governing body may prohibit contracts over a specific dollar amount in which an officer of the governing body may have an interest.

(K) The governing body may exempt from divisions (A) through (I) above, contracts involving \$100 or less in which an officer of such body may have an interest.

(1997 Code, § 1-902) (Ord. 165, passed 12-13-1983; Ord. 175, passed 9-11-1984; Ord. 196, passed 9-9-1986; Ord. 03-02, passed 3-12-2002)

Statutory reference:

Related provisions, see Neb. RS 49-14,103.02, 49-1408, 49-14,103.05, 49-14,103.03, 49-1425, 49-14,103.01, 49-14,103.06

INTERGOVERNMENTAL RISK MANAGEMENT

§ 31.075 GENERAL PROVISIONS.

(A) **PUBLIC AGENCY** means any county, city, village, school district, public power district, rural fire district or other

political subdivision of the state, the University of Nebraska and any corporation whose primary function is to act as an instrumentality or agency of the state.

(B) The Board of Trustees and any one or more public agencies may make and execute an agreement providing for joint and cooperative action in accordance with the Intergovernmental Risk Management Act to form, become members of, and operate a risk management pool for the purpose of providing to members risk management services and insurance coverages in the form of group self-insurance or standard insurance, including any combination of group self-insurance and standard insurance, to protect members against losses arising from any of the following:

- (1) General liability;
- (2) Damage, destruction or loss of real or personal property, including, but not limited to, loss of use or occupancy, and loss of income or extra expense resulting from loss of use or occupancy;
- (3) Errors and omissions liability; and
- (4) Workers' compensation liability.

(C) The Board of Trustees and any one or more public agencies, other than school districts and educational service units, may make and execute an agreement providing for joint and cooperative action in accordance with the act to form, become members of and operate a risk management pool for the purpose of providing to members risk management services and insurance coverages in the form of group self-insurance or standard insurance, including any combination of group self-insurance and standard insurance, to provide health, dental, accident and life insurance to member's employees and officers.

(1997 Code, § 1-1101) (Ord. 204, passed 9-8-1987; Ord. 04-02, passed 3-12-2002)

Statutory reference:

Related provisions, see Neb. RS 44-4303, 44-4304

§ 31.999 PENALTY.

(A) Any person, or any person's agent or servant who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) 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.

(1997 Code, § 1-1201) (Ord. 00-12, passed 6-13-2000)

Statutory reference:

Related provisions, see Neb. RS 17-207, 17-505, 18-1720, 18-1722

CHAPTER 32: MEETINGS

Section

- 32.01 Defined
- 32.02 Public body defined
- 32.03 Public meetings
- 32.04 Closed sessions
- 32.05 Prohibited acts; exempt events
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- 32.13 Change in office
- 32.14 Reorganizational meeting
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§ 32.01 DEFINED.

MEETINGS, as used in this chapter, means 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.

(1997 Code, § 1-501)

Statutory reference:

Related provisions, see Neb. RS 84-1409(2)

§ 32.02 PUBLIC BODY DEFINED.

(A) **PUBLIC BODY**, as used in this chapter, shall mean:

- (1) The governing body of the municipality;
- (2) All independent boards, commissions, bureaus, committees, councils, subunits or any other bodies, now or hereafter created by Constitution, statute, ordinance or otherwise pursuant to law; and
- (3) Advisory committees of the bodies listed above.

(B) This chapter shall not apply to subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy or taking formal action on behalf of their parent body.

(1997 Code, § 1-502) (Ord. 2-93, passed 2-9-1993)

Statutory reference:

Related provisions, see Neb. RS 84-1409(1)

§ 32.03 PUBLIC MEETINGS.

(A) All public meetings as defined by law shall be held in a municipal public building which shall be open to attendance by the public.

(B) All meetings shall be held in the public building in which the governing body usually holds such meetings unless the publicized notice hereinafter required shall designate some other public building or other specified place. The advance publicized notice of all public convened meetings shall be simultaneously transmitted to all members of the governing body and to the public by a method designated by the governing body or by the Chairperson if the governing body 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.

(C) 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 governing body scheduled outside the corporate limits of the municipality. The governing body shall have the right to modify the agenda to include items of an emergency nature only, at such public meetings.

(D) The minutes of the Village Clerk shall include the record of the manner and advance time by which the advance publicized notice was given, a statement of how the availability of an agenda of the then known subjects was communicated, the time and specific place of the meetings, and the names of each member of the governing body present or absent at each convened meeting. The minutes of the governing body shall be a public record open to inspection by the public upon request at any reasonable time at the office of the Village Clerk. Any official action on any question or motion duly moved and seconded shall be taken only by roll call vote of the governing body in open session. The record of the Village Clerk shall show how each member voted, or that the member was absent and did not vote.

(1997 Code, § 1-503) (Ord. 202, passed 9-8-1987)

Statutory reference:

Related provisions, see Neb. RS 84-1408, 84-1409, 84-1411, 84-1413

§ 32.04 CLOSED SESSIONS.

(A) (1) Any public body 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. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

- (a) 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;
- (b) Discussion regarding deployment of security personnel or devices;
- (c) Investigative proceedings regarding allegations of criminal misconduct; or
- (d) 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.

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

(B) The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding a 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 at the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close 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** means 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 division (A)(1)(a) above.

(C) 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.

(D) Nothing in this section shall be construed to require that any meeting be closed to the public.

(1997 Code, § 1-504) (Ord. 3-93, passed 2-9-1993; Ord. 95-02, passed 3-14-1995; Ord. 02-05, passed 2-7-2005)

Statutory reference:

Related provisions, see Neb. RS 84-1410

§ 32.05 PROHIBITED ACTS; EXEMPT EVENTS.

(A) 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 this chapter or the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax or electronic communication shall be used for the purpose of circumventing the requirements of this chapter or the Act.

(B) This chapter and the Act do 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, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction or advisory power.

(1997 Code, § 1-504-01) (Ord. 02-05, passed 2-7-2005)

Statutory reference:

Related provisions, see Neb. RS 84-1410

§ 32.06 EMERGENCY MEETINGS.

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 § 32.09 shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings 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.

(1997 Code, § 1-505)

Statutory reference:

Related provisions, see Neb. RS 84-1411

§ 32.07 MINUTES.

(A) Each public body shall keep minutes of all meetings showing the time, place, members present a absent, and the substance of all matters discussed.

(B) 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.

(C) Minutes shall be written and available for inspection within ten working days, or prior to the next convened meeting, whichever occurs earlier, except that the village may have an additional ten working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency.

(1997 Code, § 1-506)

Statutory reference:

Related provisions, see Neb. RS 84-1412, 84-1413

§ 32.08 VOTES.

(A) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body 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 the municipality utilizing an electronic voting device which allows the yeas and nays of each member of the governing body to be readily seen by the public.

(B) 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.

(1997 Code, § 1-507)

Statutory reference:

Related provisions, see Neb. RS 17-616, 84-1413

§ 32.09 NOTICE TO NEWS MEDIA.

The Village Clerk, in the case of the Board of Trustees, and the Secretary or other designee of each public body 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 at that meeting.

(1997 Code, § 1-508)

Statutory reference:

Related provisions, see Neb. RS 84-1411

§ 32.10 PUBLIC PARTICIPATION.

(A) Subject to the provisions of this chapter, 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 § 32.04 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. 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 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. No public body shall, for the purpose of circumventing this chapter, 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. An agency which contracts with municipalities outside the state may hold meetings of any committee outside the state if such meetings are held only in such contracting municipalities. Final action on any agenda item shall only be taken by the agency at a meeting in the state, which meeting shall comply with Neb. RS 84-1408 to 84-1414. The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting. 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 posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

(1997 Code, § 1-509) (Ord. 183, passed 9-10-1985; Ord. 203, passed 9-8-1987)

Statutory reference:

Related provisions, see Neb. RS 84-1412

§ 32.11 ORDER OF BUSINESS.

All meetings of the governing body shall be open to the public. Promptly at the hour set by law on the day of each regular meeting, the members of the governing body, the Village Clerk, the Chairperson and such other municipal officials that may be required shall take their regular stations in the meeting place, and the business of the municipality 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.

(1997 Code, § 1-511)

§ 32.12 PARLIAMENTARY PROCEDURE.

The Chairperson shall preserve order during meetings of the governing body and shall decide all questions of order, subject to an appeal to the governing body. When any person is called to order, he or she shall be seated until the point is decided. When the Chairperson is putting the question, no person shall leave the meeting room. Every person present, previous to speaking shall rise from his or her seat and address himself or herself to the presiding officer and while speaking shall confine himself or herself to the question. When two, or more persons rise at once, the Chairperson shall recognize the one who spoke first. All resolutions or motions shall be reduced to writing before being acted upon, if requested by the Village Clerk, or any member of the governing body. Every member of the governing body who is present when a question is voted upon, shall cast his or her vote unless excused by a majority of the governing body present. No motion shall be put or debated unless seconded. When seconded, it shall be stated by the Chairperson before being debatable. In all cases where a motion or resolution is entered on the minutes, the name of the member of the governing body 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 member of the governing body. 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 governing body seconding the said resolution, motion or ordinance. 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. 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. Any of the rules of the governing body 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 governing body shall decide all procedural disputes that may arise.

(1997 Code, § 1-512)

§ 32.13 CHANGE IN OFFICE.

The Chairperson and Board of Trustees shall meet at the regular meeting of the Board in December in each election year, and the outgoing officers and outgoing members of the Board of Trustees shall present their reports, and upon the outgoing Board having completed its business, the outgoing Trustees shall surrender their offices to the incoming Trustees, and the outgoing officers shall thereupon each surrender to his or her successor in office all property, records, papers and moneys belonging to the same.

(1997 Code, § 1-513) (Ord. 95-17, passed 12-12-1995)

Statutory reference:

Related provisions, see Neb. RS 17-204

§ 32.14 REORGANIZATIONAL MEETING.

(A) The newly elected Board of Trustees shall convene at the regular place of meeting at the first regular meeting of the Board in each election year immediately after the prior Board adjourns and proceed to organize themselves for the ensuing year. The Chairperson pro tempore shall call the meeting to order. The Board shall then proceed to examine the credentials of its members and other elective officers of the municipality to see that each has been duly and properly elected and to see that such oaths and bonds have been given as are required. After ascertaining that all Trustees and officers are duly qualified, the Board shall then elect one of its own body who shall be styled as Chairperson of the Board of Trustees. The Chairperson shall then nominate his or her candidates for appointive offices and said officers shall hold office until their successors are duly appointed and qualified. The Chairperson shall then proceed with the regular order of business.

(B) It is hereby made the duty of each and every member of the Board or of its successors in office and of each officer hereafter elected to any office, to qualify prior to the first regular meeting of the Board in December following his or her election. Immediately upon the assembly of the newly elected Board upon the first regular meeting in December following the election, each officer elected at the general election shall take possession of his or her office.

(C) Each appointive officer who is required to give bond shall qualify by filing the required bond, approved by the Board of Trustees, in the office of the Village Clerk within two weeks from the date of his or her said appointment; provided, on said bond shall be endorsed the same oath as required of a Trustee. Failure to qualify by elective or appointive officers within the time and manner provided in this section shall and does in itself create a vacancy in the office to which said person failing to qualify shall have been elected or appointed.

(1997 Code, § 1-514) (Ord. 95-18, passed 12-12-1995)

Statutory reference:

Related provisions, see Neb. RS 17-204

§ 32.15 REGULAR MEETINGS.

(A) The meetings of the governing body shall be held in the meeting place of the municipality. Regular meetings shall be held on the second Tuesday of each month at the hour of 7:00 p.m.

(B) At all meetings of the Board of Trustees, a majority of the Board shall constitute a quorum to do business.

(1997 Code, § 1-515) (Ord. 184, passed 9-10-1985)

Statutory reference:

Related provisions, see Neb. RS 17-204, 17-205, 17-210

§ 32.16 SPECIAL MEETINGS.

(A) Special meetings may be called by the Chairperson, 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. On filing the call for a special meeting, the Village Clerk shall notify the members of the Board of Trustees of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a member of the Board known to be out of the state, or physically unable to be present. A majority of the members of the Board of Trustees 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.

(B) 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.

(C) If a quorum is present, the Board shall be called to order by the Chairperson, if present, or if absent, by the President of the Board. In the absence of both the Chairperson and the President of the Board, the members of the Board of Trustees shall elect a President pro tempore.

(D) All ordinances passed at any special meeting shall comply with procedures set forth in §§30.30 through 30.39.

(1997 Code, § 1-516) (Ord. 184, passed 9-10-1985)

Statutory reference:

Related provisions, see Neb. RS 17-204, 17-205

§ 32.17 TELECONFERENCING.

(A) A meeting of the governing body of an entity formed under the Interlocal Cooperation Act or the Joint Public Agency Act or of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act may be held by telephone conference call if:

(1) The territory represented by the member public agencies of the entity or pool covers more than one county;

(2) Reasonable advance publicized notice is given which identifies each telephone conference location at which a member of the entity's or pool's governing body will be present;

(3) All telephone conference meeting sites identified in the notice are located within public buildings used by members of the entity or pool or at a place which will accommodate the anticipated audience;

(4) Reasonable arrangements are made to accommodate the public's right to attend, hear and speak at the meeting, including seating, recordation by audio recording devices and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;

(5) At least one copy of all documents being considered is available to the public at each site of the telephone conference call;

(6) At least one member of the governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice;

(7) The telephone conference call lasts no more than one hour; and

(8) No more than one-half of the entity's or pool's meetings in a calendar year are held by telephone conference call.

(B) Nothing in this section shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls, emails, faxes or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(1997 Code, § 1-517) (Ord. 01-05, passed 4-10-2001; Ord. 01-05, passed 2-7-2005)

Statutory reference:

Related provisions, see Neb. RS 84-1411

CHAPTER 33: VILLAGE ORGANIZATIONS

Section

Standing Committees

33.01 General provisions

Commissions and Boards

33.15 Board of Health

33.16 Health regulation

33.17 Enforcement official

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STANDING COMMITTEES

§ 33.01 GENERAL PROVISIONS.

At the organizational meeting of the Village Board, the Village Chairperson shall appoint members of such standing committees as the Village Board may by ordinance, or resolution, create. The membership of such standing committees may be changed at any time by the Village Chairperson. The Village Chairperson shall be a member ex officio of each standing committee. The members of the standing committees shall serve a term of office of one year, unless reappointed.

(1997 Code, § 2-101)

COMMISSIONS AND BOARDS

§ 33.15 BOARD OF HEALTH.

(A) The governing body shall appoint a Board of Health which shall consist of three members. The members of the Board shall include the Chairperson of the Board of Trustees, who shall serve as Chairperson, 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 Board's medical advisor. If the governing body has appointed a Village Clerk/Superintendent, the Village Clerk/Superintendent may be appointed to the Board and serve as Secretary and quarantine officer. The members of the Board shall serve, without compensation, a one-year term of office, unless reappointed and unless removed by the Chairperson of the Board of Trustees with the advice and consent of the Trustees. 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.

(B) 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. The Board of Health shall be funded by the governing body from time to time out of the General Fund. A majority of the Board shall constitute a quorum for the purpose of doing business. The Board shall meet at such times as the governing body may designate. Special meetings may be held upon the call of the Chairperson, or any two members of the Board.

(C) The Board shall enact rules and regulations, which shall have the full force and effect of law, to safeguard the health of the people of the municipality.

(1) The Board shall to enforce the rules and regulations and provide fines and punishments for any violations thereof.

(2) It may regulate, suppress and prevent the occurrence of nuisances and enforce all laws of the state and ordinances of the municipality relating to nuisances and to matters of sanitation which affect the health and safety of the people.

(3) The Board shall regularly inspect such premises and businesses as the governing body may direct.

(4) All members of the Board shall be responsible for making such reports and performing such other duties as the governing body may, from time to time, designate.

(1997 Code, § 2-201) (Ord. 97-14, passed 6-10-1997)

Statutory reference:

Related provisions, see Neb. RS 17-208

§ 33.16 HEALTH REGULATION.

For the purpose of promoting the health and safety of the residents of the municipality, the Board of Health shall, from time to time, adopt rules and regulations relative thereto, and shall make such inspections, prescribe such penalties and make such reports as may be necessary toward that purpose.

(1997 Code, § 4-101)

Statutory reference:

Related provisions, see Neb. RS 17-208

§ 33.17 ENFORCEMENT OFFICIAL.

The Village Clerk/Superintendent, as the Quarantine Officer, shall be the chief health officer of the municipality. It shall be his or her duty to notify the governing body and the Board of Health of health nuisances within the municipality and its zoning jurisdiction.

(1997 Code, § 4-102)

Statutory reference:

Related provisions, see Neb. RS 17-208

§ 33.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) 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.

(1997 Code, § 2-301) (Ord. 00-12, passed 6-13-2000)

Statutory reference:

Related provisions, see Neb. RS 17-207, 17-505, 18-1720, 18-1722

CHAPTER 34: TAX AND FINANCE

Section

- 34.01 Fiscal year
- 34.02 Definitions
- 34.03 Proposed budget statement; contents; availability; correction
- 34.04 Proposed budget statement; hearing; adoption; certificate of tax amount
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§ 34.01 FISCAL YEAR.

The fiscal year of the municipality and any public utility of the municipality commences on October 1 and extends through the following September 30 except as provided in the Municipal Proprietary Function Act.

(1997 Code, § 1-801) (Ord. 95-21, passed 12-12-1995)

Statutory reference:

Related provisions, see Neb. RS 17-701

§ 34.02 DEFINITIONS.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

BIENNIAL BUDGET. A budget by the village that provides for a biennial period to determine and carry on the village's financial and taxing affairs.

BIENNIAL PERIOD. The two fiscal years comprising a biennium commencing in odd-numbered or even-numbered years used by the village in determining and carrying on its financial and taxing affairs.

PUBLIC FUNDS. All money, including non-tax money, used in the operation and functions of governing bodies. If the village has a lottery established under the state's County and Village 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.

(1997 Code, § 1-801-01) (Ord. 01-14, passed 3-11-2014)

Statutory reference:

Related provisions, see Neb. RS 13-503

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

(A) The Board of Trustees shall annually or biennially prepare a proposed budget statement on forms prescribed and furnished by the Auditor of Public Accounts. The proposed budget statement shall be made available to the public prior to publication of the notice of the hearing on the proposed budget statement pursuant to Neb. RS 31-506. A proposed budget statement shall contain the following information, except as provided by state law:

(1) For the immediately preceding fiscal year or biennial period, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately stated as to each such source: the unencumbered cash balance at the beginning and end of the year or biennial period; the amount received by taxation of personal and real property; and the amount of actual expenditures;

(2) For the current fiscal year or biennial period, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds and separately stated as to each such source: the actual unencumbered cash balance available at the beginning of the year or biennial period; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. This statement shall contain the cash reserve for each fiscal year or biennial period and shall note whether or not the reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years or biennial periods. The cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;

(3) For the immediately ensuing fiscal year or biennial period, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: the actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year or biennial period; the amounts proposed to be expended during the year or biennial period; and the amount of cash reserve, based on actual experience of prior years or biennial periods, which cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;

(4) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property:

- (a) For the purpose of paying the principal or interest on bonds issued by the Board of Trustees; and
- (b) For all other purposes.

(5) A uniform summary of the proposed budget statement, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand total of all funds maintained by the Board of Trustees; and

(6) A list of the proprietary functions which are not included in the budget statement. These proprietary functions shall have a separate budget statement which is approved by the Board of Trustees as provided in the Municipal Proprietary Function Act.

(B) The actual or estimated unencumbered cash balance required to be included in the budget statement by this section shall include deposits and investments of the village as well as any funds held by the County Treasurer for the village and shall be accurately stated on the proposed budget statement.

(C) The village shall correct any material errors in the budget statement detected by the Auditor of Public Accounts or by other sources.

(D) The estimated expenditures plus the required cash reserve for the ensuing fiscal year or biennial period less all estimated and actual unencumbered balances at the beginning of the year or biennial period and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property shall equal the amount to be received from taxes, and that amount shall be shown on the proposed budget statement pursuant to this section. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year or biennial period.

(1997 Code, § 1-802) (Ord. 173, passed 9-11-1984; Ord. 02-94, passed 7-12-1994; Ord. 97-11, passed 6-10-1997; Ord. 98-08, passed 7-14-1998; Ord. 01-02, passed 4-10-2001; Ord. 05-03, passed 3-11-2003; Ord. 04-14, passed 3-11-2014)

Statutory reference:

Related provisions, see Neb. RS 13-504, 13-505

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

(A) The Board of Trustees shall each year or biennial period conduct a public hearing on its proposed budget statement. 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 hearing in a newspaper of general circulation within the village's jurisdiction. When the total operating budget, not including reserves, does not exceed \$10,000 per year or \$20,000 per biennial period, the proposed budget summary may be posted at the Board of Trustee's principal headquarters.

(B) After the hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of the hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. The certification of the amount to be received from personal and real property taxation shall specify separately the amount to be applied to the payment of principal or interest on bonds issued by the Board of Trustees and the amount to be received for all other purposes.

(C) If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of the changes shall be published within 20 days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for the changes.

(D) Upon approval by Board of Trustees, the budget shall be filed with the Auditor of Public Accounts. The Auditor may review the budget for errors in mathematics, improper accounting and noncompliance with the State Budget Act or Neb. RS 13-518 to 13-522. If the Auditor detects such errors, he or she shall immediately notify the Board of such errors. The Board shall correct any such error as provided in Neb. RS 13-511. Warrants for the payment of expenditures provided in the budget adopted under this section shall be valid notwithstanding any errors or noncompliance for which the Auditor has notified the Board.

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

(1997 Code, § 1-803) (Ord. 98-09 passed 7-14-1998; Ord. 06-03, passed 3-11-2003; Ord. 03-14, passed 3-11-2014)

Statutory reference:

Related provisions, see Neb. RS 13-506, 13-507

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

(A) (1) After publication and hearing on the proposed budget statement and within the time prescribed by law, the Board

of Trustees shall file with and certify to the levying board or boards on or before September 20 of each year or September 20 of the final year of a biennial period and file with the Auditor of Public Accounts a copy of the adopted budget statement which complies with Neb. RS 13-518 to 13-522, together with the amount of the tax required to fund the adopted budget, setting out separately:

- (a) The amount to be levied for the payment of principal or interest on bonds issued by the Board of Trustees; and
 - (b) The amount to be levied for all other purposes.
- (2) Proof of publication shall be attached to the statements.

(B) The Board of Trustees, in certifying the amount required, may make allowance for delinquent taxes not exceeding 5% of the amount required plus the actual percentage of delinquent taxes for the preceding tax year or biennial period and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year or biennial period which is still pending. Except for such allowances, the Board of Trustees shall not certify an amount of tax more than 1% greater or lesser than the amount determined under Neb. RS 13-505.

(C) The Board of Trustees shall use the certified taxable values as provided by the County Assessor pursuant to Neb. RS 13-509 for the current year in setting or certifying the levy. The Board of Trustees may designate one of its members to perform any duty or responsibility required of the Board by this section.

(1997 Code, § 1-804) (Ord. 03-94, passed 7-12-1994; Ord. 97-12, passed 6-10-1997; Ord. 98-10, passed 7-14-1998; Ord. 05-14, passed 3-11-2014)

Statutory reference:

Related provisions, see Neb. RS 13-508

§ 34.06 EXPENDITURES PRIOR TO ADOPTION OF BUDGET.

(A) On and after the first day of its fiscal year in 1993 and of each succeeding year or on or after the first day of its biennial period and until the adoption of the budget by the Board of Trustees in September, the Board of Trustees may expend any balance of cash on hand for the current expenses of the village. Except as provided in division (B) below, the 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 or biennial period. The 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 division (A) above may be exceeded upon the express finding of the Board of Trustees 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 of Trustees 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.

(1997 Code, § 1-804-01) (Ord. 95-04, passed 3-14-1995; Ord. 02-14, passed 3-11-2014)

Statutory reference:

Related provisions, see Neb. RS 13-509.01, 13-509.02

§ 34.07 BUDGET PROCEDURE.

The Manual of Instructions for Village: Budgets, prepared by the Auditor of Public Accounts, State Capitol, Lincoln, Nebraska 68509 is incorporated by reference for the purpose of proper budget preparation.

(1997 Code, § 1-805)

§ 34.08 APPROPRIATIONS.

The governing body shall adopt a budget statement pursuant to the State 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.

(1997 Code, § 1-806) (Ord. 04-94, passed 7-12-1994; Ord. 95-21, passed 12-12-1995)

Statutory reference:

Related provisions, see Neb. RS 17-706

§ 34.09 ALL-PURPOSE LEVY; ALLOCATION; ABANDONMENT; EXTRAORDINARY LEVIES.

(A) The governing body 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. RS 77-3442, the all-purpose levy shall not exceed the annual levy specified in Neb. RS 19-1309 to be

levied upon the taxable valuation of all taxable property in the municipality.

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

(C) The municipality 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 municipality may be made by the municipality in addition to the all-purpose levy.

(1997 Code, § 1-807) (Ord. 98-14, passed 7-14-1998)

Statutory reference:

Related provisions, see Neb. RS 19-1309 through 19-1312

§ 34.10 GENERAL PROPERTY TAX; CERTIFICATION OF AMOUNT.

The governing body shall, at the time and in the manner provided by law, cause to be certified to the County Clerk the amount of tax to be levied upon the taxable value of all the taxable property of the municipality which the municipality requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. Subject to Neb. RS 77-3442, the maximum amount of tax which may be so certified, assessed and collected shall not require a tax levy in excess of the amounts specified in Neb. RS 17-702.

(1997 Code, § 1-812) (Ord. 98-11, passed 7-14-1998)

Statutory reference:

Related provisions, see Neb. RS 17-702

§ 34.11 EXPENDITURES.

No municipal official shall have the power to appropriate, issue or draw any order or warrant on the Municipal 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 municipality shall exceed in any one year the amount provided for that improvement in the adopted budget statement.

(1997 Code, § 1-813)

Statutory reference:

Related provisions, see Neb. RS 17-708

§ 34.12 CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS.

(A) Except as provided in Neb. RS 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 municipality, no contract 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 the enlargement or improvement is assessed to the property, costing over \$30,000, shall be made unless it is first approved by the governing body.

(B) Except as provided in Neb. RS 18-412.01, before the governing body makes any contract in excess of \$30,000 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 the enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the Municipal Engineer and submitted to the governing body. In advertising for bids as provided in divisions (C) and (E) below, the governing body may publish the amount of the estimate.

(C) Advertisements for bids shall be required for any contract costing over \$30,000 entered into:

(1) 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 the enlargement or improvement is assessed to the property; or

(2) For the purchase of equipment used in the construction of the enlargement or general improvements.

(D) A municipal electric utility may enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for the enlargement or improvement without advertising for bids if the price is:

(1) Thirty thousand dollars or less;

(2) Sixty thousand dollars or less and the village electric utility has gross annual revenue from retail sales in excess of \$1,000,000;

(3) Ninety thousand dollars or less and the village electric utility has gross annual revenue from retail sales in excess of \$5,000,000; or

(4) One hundred twenty thousand dollars or less and the village electric utility has gross annual revenue from retail sales in excess of \$10,000,000.

(E) The advertisement provided for in division (C) above shall be published at least seven days prior to the bid closing in a legal newspaper published in or of general circulation in the municipality, and if there is no legal newspaper published in or of general circulation in the municipality, then in some newspaper of general circulation published in the county in which the municipality is located, and if there is no legal newspaper of general circulation published in the county in which the municipality is located, then in a newspaper, designated by the County Board, having a general circulation within the county where bids are required, and if no newspaper is published in the municipality or county, or if no newspaper has general circulation in the county, then by posting a written or printed copy thereof in each of three public places in the municipality 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. RS 17-613 when adopted by a three-fourths vote of the governing body and entered of record.

(F) If, after advertising for bids as provided in this section, the governing body receives fewer than two bids on a contract or if the bids received by the governing body contain a price which exceeds the estimated cost, the governing body may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost commensurate with the estimate given.

(G) If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the governing body or Board of Public Works, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the municipality, the governing body or Board of Public Works may authorize the manufacture and assemblage of those materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.

(H) Any bidding procedure may be waived by the governing body or Board of Public Works:

(1) 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. RS 81-145 through 81-162; or

(2) When the contract is negotiated directly with a sheltered workshop pursuant to Neb. RS 48-1503; or

(3) When required to comply with any federal grant, loan or program.

(I) (1) Notwithstanding any other provisions of law or a home rule charter, a municipality 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 material division of the Department of Administrative Services.

(2) For the purpose of this division (I), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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.

PURCHASING or PURCHASE. The obtaining of personal property by sale, lease or other contractual means.

(1997 Code, § 1-814) (Ord. 98-18, passed 7-14-1998; Ord. 11-12, passed 2-14-2012)

Statutory reference:

Related provisions, see Neb. RS 17-568.01, 17-568.02, 18-1756

§ 34.13 ANNUAL AUDIT; FINANCIAL STATEMENTS.

(A) (1) For the purpose of this division (A), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCOUNTANT. A duly licensed public accountant or certified public accountant who otherwise is not an employee of or connected in any way with the village.

ANNUAL AUDIT REPORT. The written report of the accountant and all appended statements and schedules relating thereto presenting or recording the findings of an examination or audit of the financial transactions, affairs or financial condition of the village and its proprietary functions for the fiscal year immediately prior to the making of such annual report.

FISCAL YEAR. The fiscal year for the village or the fiscal year established in Neb. RS 18-2804 for a proprietary function if different than the municipal fiscal year.

(2) The Board of Trustees shall cause an audit of the village's accounts to be made by a recognized independent and qualified accountant as expeditiously as possible following the close of the fiscal year and to cover all financial transactions and affairs of the village for such preceding fiscal year. Such audit shall be made on a cash or accrual method at the discretion of the Board of Trustees. Such audit shall be completed and the annual audit report made by such accountant shall be submitted within six months after the close of the fiscal year in any event, unless an extension of time is granted by

a written resolution adopted by the Board of Trustees. The Board of Trustees may request a waiver of the audit requirement subject to the requirements of Neb. RS 84-304. If the village is required to conduct an audit under Neb. RS 84-304 and owns or operates any type of public utility or other enterprise which substantially generates its own revenue, the Board of Trustees shall have that phase of the village's affairs reported separately from the other functions of the village. The result of such audit shall appear separately in the annual audit report made by the accountant to the village, and the audit shall be on a cash or accrual basis at the discretion of the Board of Trustees.

(3) The annual audit report shall set forth, insofar as possible, the financial position and results of financial operations for each fund or group of accounts of the village. When the accrual method is selected for the annual audit report, such report shall be in accordance with generally accepted accounting principles. The annual audit report shall also include the professional opinion of the accountant with respect to the financial statements, or, if an opinion cannot be expressed, a declaration that the accountant is unable to express such an opinion with an explanation of the reasons why he or she cannot do so.

(4) At least three copies of such annual audit report shall be properly signed and attested by the accountant; two copies shall be filed with the Village Clerk and one copy shall be filed with the Auditor of Public Accounts. The annual audit report filed, together with any accompanying comment or explanation, 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.

(B) The Board of Trustees shall provide and file with the Village Clerk, not later than August 1 of each year, financial statements showing the village's actual and budgeted figures for the most recently completed fiscal year.

(1997 Code, § 1-815) (Ord. 174, passed 9-11-1984; Ord. 07-03, passed 3-11-2003)

Statutory reference:

Related provisions, see Neb. RS 13-606, 19-2902, 19-2903, 19-2904, 19-2905

§ 34.14 CLAIMS.

All claims against the municipality shall be presented to the governing body 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 municipality in any action brought against it for an unliquidated claim which has not been presented to the governing body 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 Municipal Treasury for the appropriate fund against which it is to be drawn; provided, that in the event there exists 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.

(1997 Code, § 1-816)

Statutory reference:

Related provisions, see Neb. RS 17-714, 17-715

§ 34.15 WARRANTS.

All warrants drawn upon the Municipal Treasury must be signed by the Chairperson of the 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.

(1997 Code, § 1-817)

Statutory reference:

Related provisions, see Neb. RS 17-711

§ 34.16 SPECIAL ASSESSMENT FUND.

All money received on special tax assessments shall be held by the Municipal 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 municipality for money expended for any such improvement.

(1997 Code, § 1-818)

Statutory reference:

Related provisions, see Neb. RS 17-710

§ 34.17 SINKING FUNDS.

The governing body, 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 municipality 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 municipality, 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 governing body shall declare its purpose by resolution to submit to the qualified electors of the municipality the proposition to provide the improvement at the next general municipal 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. 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 municipality. 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 governing body 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 Municipal Treasurer shall, as they accumulate, be immediately invested with the written approval of the governing body 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 governing body is authorized to do so by 60% of the qualified electors of the municipality voting at a general election favoring such a change in the use of the Sinking Fund.

(1997 Code, § 1-819)

Statutory reference:

Related provisions, see Neb. RS 19-1301 through 19-1304, 77-2337, 77-2339

§ 34.18 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 municipal funds.

(B) The Board of Trustees shall require from all banks, capital stock financial institutions or qualifying mutual financial institutions: 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, security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The Board of Trustees 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.

(C) 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 or guaranteed by such corporation, and for deposits so insured or guaranteed, no other surety bond or other security shall be required.

(D) Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions. Neb. RS 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

(1997 Code, § 1-820) (Ord. 98-16, passed 7-14-1998; Ord. 05-02, passed 3-12-2001; Ord. 08-03, passed 3-11-2003; Ord. 05-04, passed 2-10-2004)

Statutory reference:

Related provisions, see Neb. RS 17-607, 77-2362

§ 34.19 CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS.

The Village Treasurer may, upon resolution of the Board of Trustees authorizing the same, purchase certificates of deposit from and make time deposits in any bank, capital stock financial institution or qualifying mutual financial institution in the state to the extent that such certificates of deposit or time deposits are insured or guaranteed 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 same manner as is provided for cities of the first class in Neb. RS 16-714 to 16-716. Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions. Neb. RS 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

(1997 Code, § 1-820-01) (Ord. 98-17, passed 7-14-1998; Ord. 06-02, passed 3-12-2002)

Statutory reference:

Related provisions, see Neb. RS 17-720

§ 34.20 INVESTMENT OF FUNDS.

Whenever a village has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the governing body of such village may invest

any such surplus in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized by law and as provided in the authorized investment guidelines of the State Investment Council in effect on the date the investment is made.

(1997 Code, § 1-821) (Ord. 2-89, passed 11-14-1989)

Statutory reference:

Related provisions, see Neb. RS 17-608, 17-609, 21-1316.01, 77-2341

§ 34.21 BOND ISSUES.

The governing body may, after meeting all the requirements of state law, issue bonds, fund bonds and retire bonds for such purposes as may be permitted by state law. The governing body 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.

(1997 Code, § 1-822)

Statutory reference:

Related provisions, see Neb. RS 10-201 through 10-411, 10-601 through 10-614, 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, 23-343.13, 39-836

§ 34.22 MOTOR VEHICLE FEE.

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LIMITS OF THE MUNICIPALITY. Includes the extraterritorial zoning jurisdiction of the municipality.

PERSON. Includes bodies corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, cooperatives and associations. **PERSON** does not include any federal, state or local government or any political subdivision thereof.

(B) Except as otherwise provided in division (D) below, the governing body of the municipality shall have power to require any individual whose primary residence or person who owns a place of business which is within the limits of the municipality and that owns and operates a motor vehicle within such limits to pay an annual motor vehicle fee and to require the payment of such fee upon the change of ownership of such vehicle. All such fees which may be provided for under this section shall be used exclusively for constructing, repairing, maintaining or improving streets, roads, alleys, public ways or parts thereof or for the amortization of bonded indebtedness when created for such purposes.

(C) No motor vehicle fee shall be required under this section if:

(1) A vehicle is used or stored but temporarily in the municipality for a period of six months or less in a 12-month period;

(2) An individual does not have a primary residence or a person does not own a place of business within the limits of the municipality and does not own and operate a motor vehicle within the limits of the municipality; or

(3) An individual is a full-time student attending a post-secondary institution within the limits of the municipality and the motor vehicle's situs under the Motor Vehicle Certificate of Title Act is different from the place at which he or she is attending such institution.

(D) After December 31, 2012, no motor vehicle fee shall be required of any individual whose primary residence is or person who owns a place of business within the extraterritorial zoning jurisdiction of the municipality.

(E) Until the implementation date designated by the Director of Motor Vehicles under Neb. RS 23-186, the fee shall be paid to the designated county official of the county in which the municipality is located when the registration fees as provided in the Motor Vehicle Registration Act are paid.

(1) These fees shall be remitted to the County Treasurer for credit to the Road Fund of the municipality.

(2) On and after the implementation date designated under Neb. RS 23-186, the fee shall be paid to the County Treasurer for credit to such Road Fund.

(1997 Code, § 1-823) (Ord. 2-88, passed 9-13-1988; Ord. 3-89, passed 11-14-1989; Ord. 12-12, passed 2-14-2012)

Statutory reference:

Related provisions, see Neb. RS 18-1214

§ 34.23 PROPERTY TAX REQUEST; PROCEDURE.

(A) If the annual assessment of property would result in an increase in the total property taxes levied by a county, municipality, school district, learning community, sanitary and improvement district, natural resources district, educational service unit, or community college, as determined using the previous year's rate of levy, the village's property tax request for

the current year shall be no more than its property tax request in the prior year, and the village's rate of levy for the current year shall be decreased accordingly when such rate is set by the County Board of Equalization pursuant to Neb. RS 77-1601. The Board of Trustees shall pass a resolution or ordinance to set the amount of its property tax request after holding the public hearing required in division (C) of this section. If the Board of Trustees seeks to set its property tax request at an amount that exceeds its property tax request in the prior year, it may do so after holding the public hearing required in division (C) of this section and by passing a resolution or ordinance that complies with division (D) of this section.

(B) If the annual assessment of property would result in no change or a decrease in the total property taxes levied by a county, municipality, school district, learning community, sanitary and improvement district, natural resources district, educational service unit, or community college, as determined using the previous year's rate of levy, the village's property tax request for the current year shall be no more than its property tax request in the prior year, and the Board of Trustees' rate of levy for the current year shall be adjusted accordingly when such rate is set by the County Board of Equalization pursuant to Neb. RS 77-1601. The Board of Trustees shall pass a resolution or ordinance to set the amount of its property tax request after holding the public hearing required in division (C) of this section. If the Board of Trustees seeks to set its property tax request at an amount that exceeds its property tax request in the prior year, it may do so after holding the public hearing required in division (C) of this section and by passing a resolution or ordinance that complies with division (D) of this section.

(C) The resolution or ordinance required under this section shall only be passed after a special public hearing called for the purpose is held and after notice is published in a newspaper of general circulation in the area of the village at least four calendar days prior to the hearing. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing. If the village's total operating budget, not including reserves, does not exceed \$10,000 per year or \$20,000 per biennial period, the notice may be posted at the Board of Trustees' principal headquarters.

(D) The hearing notice shall contain the following information:

(1) The certified taxable valuation under Neb. RS 13-509 for the prior year, the certified taxable valuation under Neb. RS 13-509 for the current year, and the percentage increase or decrease in such valuations from the prior year to the current year;

(2) The dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request;

(3) The property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation;

(4) 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;

(5) The percentage increase or decrease in the property tax rate from the prior year to the current year; and

(6) The percentage increase or decrease in the total operating budget from the prior year to the current year.

(E) Any resolution or ordinance setting a village's property tax request at an amount that exceeds the village's property tax request in the prior year shall include, but not be limited to, the following information:

(1) The name of the village;

(2) The amount of the property tax request;

(3) The following statements:

(a) The total assessed value of property differs from last year's total assessed value by ___ percent;

(b) The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be \$ ___ per \$100 of assessed value;

(c) The (name of village) proposes to adopt a property tax request that will cause its tax rate to be \$ ___ per \$100 of assessed value; and

(d) Based on the proposed property tax request and changes in other revenue, the total operating budget of (name of village) will exceed last year's by ___ percent; and

(4) The record vote of the Board of Trustees in passing such resolution or ordinance.

(F) Any resolution or ordinance setting a property tax request under this section shall be certified and forwarded to the County Clerk on or before October 13 of the year for which the tax request is to apply.

(G) Any tax levy which is not in compliance with this section and Neb. RS 77-1601 shall be construed as an unauthorized levy under Neb. RS 77-1606.

(Neb. RS 77-1601.02)

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

(A) Property tax levies for the support of the village for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this division (A), except as provided in division (C). The village may levy a maximum levy of \$0.45

per \$100 of taxable valuation of property subject to the levy plus an additional \$0.05 per \$100 of taxable valuation to provide financing for the village's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. RS 51-201, museum pursuant to Neb. RS 51-501, visiting community nurse, home health nurse or home health agency pursuant to Neb. RS 71-1637, or statue, memorial or monument pursuant to Neb. RS 80-202. Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against the village which require or obligate the village to pay 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, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this division (A). The limitations on tax levies provided in this division (A) are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this division (A) are those provided by or authorized by this section. Tax levies in excess of the limitations in this section shall be considered unauthorized levies under Neb. RS 77-1606 unless approved under division (C) below.

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

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

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

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

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

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

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

(a) By passing a resolution calling for exceeding the limits by a vote of at least two-thirds of the members of the Board of Trustees and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the village; or

(b) Upon receipt of a petition by the County Clerk or Election Commissioner of every county containing all or part of the village requesting an election signed by at least 5% of the registered voters residing in the village.

(3) The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in division (A) above 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 or Election Commissioner 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. RS 32-802 shall be no later than 20 days prior to the election.

(4) The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition. The election shall be held pursuant to the Election Act. For petitions filed with the County Clerk or Election Commissioner on or after May 1, 1998, the petition shall be in the form as provided in Neb. RS 32-628 through 32-631.

(5) Any excess levy authority approved under this division (C) shall terminate pursuant to its terms, on a vote of the Board of Trustees to terminate the authority to levy more than the limits, at the end of the fourth fiscal year following the first year in which the levy exceeded the limit, or as provided in division (C)(8) below, whichever is earliest.

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

include the language specified in Neb. RS 77-3444.

(7) If a majority of the votes cast upon the ballot question are in favor of such tax, the County Board shall authorize a tax in excess of the limits in division (A) above, 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 Board of Trustees shall not impose such tax.

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

(9) (a) The village may rescind or modify a previously approved excess levy authority prior to its expiration by a majority of registered voters voting on the issue in a primary, general or special election at which the issue is placed before the registered voters. A vote to rescind or modify must be approved prior to October 10 of the fiscal year for which it is to be effective.

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

1. By passing a resolution calling for the rescission or modification by a vote of at least two-thirds of the members of the Board of Trustees and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the village; or

2. Upon request of a petition by the County Clerk or Election Commissioner of every county containing all or part of the village requesting an election signed by at least 5% of the registered voters residing in the village.

(c) The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either 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 or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 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. RS 32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act.

(1997 Code, § 1-825) (Ord. 98-12, passed 7-14-1998; Ord. 00-06, passed 6-13-2000; 11-03, passed 3-11-2003)

Statutory reference:

Related provisions, see Neb. RS 77-3442 through 77-3444, 77-3443

§ 34.25 BUDGET REVISION.

(A) Unless otherwise provided by law, the governing body 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 governing body that:

(1) There are circumstances which could not reasonable have been anticipated at the time the budget for the current year adopted;

(2) The budget adopted violated Neb. RS 13-518 to 13-52, 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 comply with Neb. RS 13-518 to 13-522; or

(3) The governing body has been notified by the Audit of Public Accounts of a mathematical or accounting error noncompliance with the State 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 municipality. Such published notice shall set forth:

(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 governing body, the governing body shall file with the County Clerk of the county or counties in which such governing body is located, and with the Auditor of Public Accounts, a copy of the revised budget, as adopted. The governing body 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. RS 13-506, a governing body may, or within 30 days after notification of an error by the Auditor of Public Accounts, a governing body 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 governing body shall file a copy of the corrected budget with the County Clerk of the county or counties in which such governing body is located and with the Auditor of Public Accounts. The governing body may then issue warrants in payment for expenditures authorized by the budget.

(1997 Code, § 1-826) (Ord. 00-07, passed 6-13-2000; Ord. 07-02, passed 3-12-2002; Ord. 09-03, passed 3-11-2003)

Statutory reference:

Related provisions, see Neb. RS 13-511

TITLE V: PUBLIC WORKS

Chapter

- 50. UTILITIES GENERALLY
- 51. GARBAGE AND REFUSE
- 52. WATER
- 53. SEWER

CHAPTER 50: UTILITIES GENERALLY

Section

- 50.01 Discontinuance of service; notice procedure
- 50.02 Diversion of services; civil action
- 50.03 Meter tampering, unauthorized reconnection prohibited; evidence

- 50.99 Penalty

§ 50.01 DISCONTINUANCE OF SERVICE; NOTICE PROCEDURE.

(A) The municipality shall not discontinue utility service to any domestic subscriber for nonpayment of any past-due account unless the municipality first gives 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. As to any subscriber who has previously been identified as a welfare recipient to the municipality by the Department of Health and Human Services, such notice shall be by certified mail and notice of such proposed termination shall be given to the Department of Health and Human Services.

(B) Prior to the discontinuance of service to any domestic subscriber by the municipality, the domestic subscriber, upon request, shall be provided a conference with the governing body. The governing body has established procedures to resolve utility bills when a conference is requested by a domestic subscriber. These 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 of this section as though set out in full. A copy of such procedures shall be furnished upon the request of any domestic subscriber. The governing body 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 municipality for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.

(1997 Code, § 3-601) (Ord. 177, passed 9-11-1984; Ord. 97-15, passed 6-10-1997)

Statutory reference:

Related provisions, see Neb. RS 70-1603, 70-1604

§ 50.02 DIVERSION OF SERVICES; CIVIL ACTION.

(A) For purposes of this section, the definitions found in Neb. RS 25-21,275 shall apply.

(B) (1) (a) The municipality may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets or attempts:

1. Bypassing;
2. Tampering; or
3. Unauthorized metering when such act results in damages to a municipal utility.

(b) The municipality 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.

(2) In any civil action brought pursuant to this section, the municipality shall be entitled, upon proof of willful or intentional bypassing, tampering or unauthorized metering to recover as damages:

(a) The amount of actual damage or loss if the amount of the damage or loss is susceptible of reasonable calculation; or

(b) Liquidated damages of \$750 if the amount of actual damage or loss is not susceptible of reasonable calculation.

(3) In addition to damage or loss under divisions (B)(2)(a) or (B)(2)(b) above, the municipality 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 attorneys' fees in cases within the scope of Neb. RS 25-1801.

(C) (1) 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:

(a) 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

(b) 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.

(2) 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.

(D) The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws. 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.

(1997 Code, § 3-602) (Ord. 12-03, passed 3-11-2003) Penalty, see §50.99

Statutory reference:

Related provisions, see Neb. RS 25-21,276, 25-21,277, 25-21,278

§ 50.03 METER TAMPERING, UNAUTHORIZED RECONNECTION PROHIBITED; EVIDENCE.

(A) It is an offense for any person:

(1) To connect any pipe or conduit supplying water, without the knowledge and consent of the municipality, in such manner that any portion thereof may be supplied to any instrument by or at which water may be consumed without passing through the meter made or provided for measuring or registering the amount or quantity thereof passing through it;

(2) To knowingly use or knowingly permit the use of water obtained unlawfully pursuant to this section;

(3) To reconnect water service without the knowledge and consent of the municipality if the service has been disconnected pursuant to Neb. RS 70-1601 to 70-1615 or § 50.01; or

(4) To willfully injure, alter or by any instrument, device or contrivance in any manner interfere with or obstruct the action or operation of any meter made or provided for measuring or registering the amount or quantity of water passing through it, without the knowledge and consent of the municipality.

(B) Proof of the existence of any pipe or conduit connection or reconnection or of any injury, alteration, interference or obstruction of a meter is prima facie evidence of the guilt of the person in possession of the premises where such connection, reconnection, injury, alteration, interference or obstruction is proved to exist.

(1997 Code, § 3-603) (Ord. 95-24, passed 12-12-1995; Ord. 13-03, passed 3-11-2003) Penalty, see §50.99

Statutory reference:

Related provisions, see Neb. RS 28-515.02

§ 50.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) 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.

(1997 Code, § 3-701) (Ord. 00-12, passed 6-13-2000)

Statutory reference:

Related provisions, see Neb. RS 17-207, 17-505, 18-1720, 18-1722

CHAPTER 51: GARBAGE AND REFUSE

Section

- 51.01 Definitions
- 51.02 Garbage, trash and waste
- 51.03 Authority
- 51.04 Notice; removal
- 51.05 Nuisance
- 51.06 Lien
- 51.07 Mandatory service; charges; storage, collection and disposal; maintenance
- 51.08 Hazardous items and items requiring special handling or disposal

- 51.99 Penalty

§ 51.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GARBAGE. Kitchen refuse, decayed waste, dead animals or anything that may decompose and become offensive to the public health.

(1997 Code, § 4-201)

RUBBISH or TRASH. Discarded machinery, chips, pieces of wood, sticks, dead trees, branches, bottles, broken glass, crockery, tin cans, boxes, papers, rags or any other litter or debris that is not an immediate hazard to the health of the residents of the municipality.

(1997 Code, § 4-202)

WASTE. Cinders, ashes, plaster, brick, stone, sawdust or sand.

(1997 Code, § 4-203)

§ 51.02 GARBAGE, TRASH AND WASTE.

It shall be unlawful for any person to keep in, on or about any dwelling, building or premises, or any other place in the municipality, decayed vegetable or animal substance, garbage or refuse matter of any kind that may be injurious to the public health or offensive to the residents of the municipality unless the same is kept in metal receptacles as nearly air-tight as may be practical. 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, waste or rubbish of any kind. No person may permit garbage, rubbish, waste or refuse to collect and all persons shall remove the same from their property within 24 hours after being notified to do so by the Village Clerk/Superintendent who shall represent the Board of Health. Any person having garbage, rubbish, waste or refuse

that is subject to decay or fermentation within a short period of time shall be required to place the same in a standard metal garbage can with a tight cover.

(1997 Code, § 4-204) Penalty, see §51.99

Statutory reference:

Related provisions, see Neb. RS 19-2106

§ 51.03 AUTHORITY.

The governing body for the village may provide for the collection and removal of garbage or refuse found upon any lot or land within its corporate roads, or alleys abutting such lot or land which constitutes a public nuisance. The village may require the owner, duly authorized agent or tenant of such lot or land to remove the garbage or refuse from such lot or land and streets, roads or alleys.

(1997 Code, § 4-205) (Ord. 3/88, passed 9-13-1988) Penalty, see §51.99

Statutory reference:

Related provisions, see Neb. RS 18-1303

§ 51.04 NOTICE; REMOVAL.

Notice that removal of garbage or refuse is necessary shall be given to each owner or owner's duly authorized agent and to the tenant if any. Such notice shall be provided by personal service or by certified mail. After providing such notice, the village through its proper offices shall, in addition to other proper remedies, remove the garbage or refuse, or cause it to be removed, from such lot or land and streets, roads or alleys.

(1997 Code, § 4-206) (Ord. 3/88, passed 9-13-1988) Penalty, see §51.99

Statutory reference:

Related provisions, see Neb. RS 18-1303

§ 51.05 NUISANCE.

If the Chairperson declares that the accumulation of such garbage or refuse upon any lot or land constitutes an immediate nuisance and hazard to public health and safety, the village shall remove the garbage or refuse, or cause it to be removed, from such lot or land within 48 hours after notice by personal service or following receipt of a certified letter in accordance with § 51.04 if such garbage or refuse has not been removed.

(1997 Code, § 4-207) (Ord. 3/88, passed 9-13-1988) Penalty, see §51.99

Statutory reference:

Related provisions, see Neb. RS 18-1303

§ 51.06 LIEN.

Whenever a village removes any garbage or refuse, or causes it to be removed, from any lot or land pursuant to this chapter, it shall, after a hearing conducted by the governing board, assess the cost of the removal against such lot or land.

(1997 Code, § 4-208) (Ord. 3/88, passed 9-13-1988) Penalty, see §51.99

Statutory reference:

Related provisions, see Neb. RS 18-1303

§ 51.07 MANDATORY SERVICE; CHARGES; STORAGE, COLLECTION AND DISPOSAL; MAINTENANCE.

(A) The Board of Trustees may, by resolution, authorize the Chairperson to enter into an exclusive agreement with a contractor for the collection and removal of solid waste within the village and the disposal thereof in a disposal facility, at such rates and charges as may be agreed upon within the limits provided herein.

(B) Commencing September 1, 1993, all solid waste to be disposed of within the village shall be placed in the containers furnished by the contractor with whom the village has entered into an exclusive agreement for the collection and removal of solid waste, and said solid waste shall be picked up by the contractor. The burning or placing of hot ashes in the containers furnished by the contractor is hereby prohibited.

(C) The Board of Trustees shall, by resolution, set forth a schedule of charges for the collection of solid waste. Any and all amendments or modifications of the schedule of charges shall likewise be effectuated by the passage of a resolution by the Board of Trustees.

(D) The solid waste collection charges will be billed to the residents of the village along with and at the same time said residents are billed for water, sewer and/or electricity service. Charges for solid waste collection shall be collected at the same time, in the same manner and by the same officers as sewer, water and electricity charges are collected by the

village. Unpaid solid waste collection charges shall be deemed delinquent on the same day sewer, water and/or electricity charges are deemed delinquent.

(E) All delinquent solid waste collection charges are hereby declared to be a lien upon the premises or real estate for which, or upon which the same was used or supplied, and upon the refusal of said person, firm or corporation to pay said delinquent collection fees, they shall be collected by being placed upon the assessment rolls and the tax books for collection, like other taxes, as further provided herein. It shall be the duty of the Village Clerk on the second Monday of January of each year to report to the Board of Trustees a list of all unpaid accounts due for solid waste collection, together with a description of the premises or real estate, upon or for which the same was used or supplied. Said report shall be examined, and if approved by the Chairperson and Board of Trustees, shall be certified by the Village Clerk to the County Clerk, giving the amounts due and the description of the premises or real estate upon or for which the collection services were used or supplied, the same to be collected as other taxes, by the County Treasurer of said County. Prior to certification to the County Clerk, the village shall give 30 days' written notice to the owner of record of the subject property, said notice to be certified mail or registered mail.

(F) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ASHES. Including the residue from the burning of wood, coal, coke or other combustibles.

GARBAGE. Including putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

REFUSE. Including all putrescible and non-putrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.

RUBBISH. Including non-putrescible solid wastes (excluding ashes) consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar materials.

(G) It shall be unlawful for any person to keep in, on or about any dwelling house, building or premises in the village, any decayed vegetable or animal substance, garbage, rubbish or refuse matter, or any substance that may be injurious to the public health or offense to the residents or inhabitants of the vicinity unless the same is kept in containers and/or receptacles as set forth in this section.

(H) It shall be unlawful to deposit or permit to fall from any vehicle any solid waste on any public street or alley in the village; provided, that this section shall not be construed to prohibit solid wastes in a container complying with the provisions of this section preparatory to having such material collected and disposed of in the manner provided herein.

(I) It shall be unlawful:

- (1) To dispose of any solid waste except in compliance with this section;
- (2) To transport any solid waste in the village compost site or licensed landfill, except in compliance with this section;
- (3) To collect and dispose of any solid waste within the village, except as authorized in this section; or

(4) To burn garbage, trash, waste, refuse, rubbish or debris within the corporate limits; provided, that the Village Fire Chief may authorize the burning of grass or weeds, and the burning of old buildings and other combustibles by the Fire Department in firefighting practice and training.

(J) Nothing herein shall be construed to prohibit the following:

- (1) Recycling of wastes in any municipality-approved program for ecological purposes;
- (2) Disposal of garbage or refuse by means of a kitchen or home disposal unit; and

(3) Nor shall the container provisions of this section apply to large, bulky refuse which may not be placed within a suitable container.

(1997 Code, § 4-209) (Ord. 8-93, passed 8-24-1993) Penalty, see §51.99

§ 51.08 HAZARDOUS ITEMS AND ITEMS REQUIRING SPECIAL HANDLING OR DISPOSAL.

(A) No person shall put out any of the items specified below to be collected by the Municipal solid waste collector for land disposal:

(1) Yard waste from April 1 through November 30 of each year unless such yard waste has been separated from its source and is put out for separate collection and delivery to the landfill for the purpose of soil conditioning or composting under the conditions otherwise specified;

(2) Lead-acid batteries;

(3) Waste oil;

(4) Waste tires in any form except tires that are nonrecyclable. Tires are not considered disposed if they meet the requirements of Neb. RS 13-2039;

(5) Discarded household appliances; and/or

(6) Unregulated hazardous wastes, except household hazardous wastes, which are exempt from the regulations under the Environmental Protection Act.

(B) Any such items shall be disposed of only as permitted under the State Integrated Solid Waste Management Act, being 42 U.S.C. § 4321 et seq. and Neb. RS 81-1501 et seq. or any amendments thereof.

(C) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LAND DISPOSAL. Includes, but is not limited to, incineration at a landfill.

NONRECYCLABLE TIRE. A press-on solid tire, a solid pneumatic shaped tire or a foam pneumatic tire.

WASTE TIRE. A tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

YARD WASTE. Grass and leaves.

(1997 Code, § 4-210) (Ord. 06-04, passed 2-10-2004) Penalty, see §51.99

Statutory reference:

Related provisions, see Neb. RS 13-2013.02, 13-2016.01, 13-2039

§ 51.99 PENALTY.

(A) (1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(2) (a) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(b) 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.

(B) A person, firm or corporation violating any provision of §51.07 shall be fined not less than \$5 nor more than \$100 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(1997 Code, § 4-209)

(Ord. 8-93, passed 8-24-1993; Ord. 00-12, passed 6-13-2000)

Statutory reference:

Related provisions, see Neb. RS 17-207, 17-505, 18-1720, 18-1722

CHAPTER 52: WATER

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- 52.99 Penalty

GENERAL PROVISIONS

§ 52.01 OPERATION AND FUNDING.

The municipality owns and operates the Municipal Water Department through the Village Clerk/Utilities Superintendent. The governing body, for the purpose of defraying the cost of the care, management and maintenance of the Municipal 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 Municipal Treasurer. The Village Clerk/Utilities Superintendent shall have the direct management and control of the Municipal Water Department and shall faithfully carry out the duties of his or her office. The Village Clerk/Utilities Superintendent 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 governing body. The governing body 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 at any reasonable time.

(1997 Code, § 3-101)

Statutory reference:

Related provisions, see Neb. RS 17-531, 17-534, 19-1305

§ 52.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MAIN. 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 municipality.

SEPARATE PREMISES. 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. 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. 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.

(1997 Code, § 3-102)

§ 52.03 CONSUMER'S APPLICATION.

Every person or persons desiring a supply of water must make application therefor to the Village Clerk/Utilities Superintendent. The Superintendent may require any applicant to make a deposit for water, sewer and garbage in the amount of two months' charges, as set by the governing body. Water may not be supplied to any house or private service pipe except upon the order of the Superintendent. The Department shall not supply water service to any person outside the corporate limits without special permission from the governing body; 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 municipality to provide water service to nonresidents.

(1997 Code, § 3-103) (Ord. 99-07, passed 11-9-1999; Ord. 16-05, passed 2-7-2005) Penalty, see §52.99

Statutory reference:

Related provisions, see Neb. RS 17-537, 19-2701

§ 52.04 WATER CONTRACT.

The municipality, through its Water Department, shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The municipality may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a municipal commercial main is now or may hereafter be laid and may also furnish water to persons whose premises are situated outside the corporate limits of the municipality, as and when, according to law, the governing body may see fit to do so. The rules, regulations and water rates hereinafter named in this subchapter, shall be considered 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. Without further formality, the making of application on the part of any applicant or the use or consumption of water service by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the municipality, to which said contract both parties are bound. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the governing body may hereafter adopt, the Village Clerk/Utilities Superintendent or his or her agent, may cut off or disconnect the water service from the building or premises or place of such violation. No further connection for water service to said building, premises or place shall again be made save or except by order of said Superintendent or his or her agent.

(1997 Code, § 3-104)

§ 52.05 INSTALLATION PROCEDURE.

In making excavations in streets, alleys or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones and earth must be removed and deposited in a manner that will occasion the least inconvenience 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. 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 Village Clerk/Utilities Superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the consumer. All installations or repairs of pipes require two inspections by the Village Clerk/Utilities Superintendent. The first inspection shall be made when connections or repairs are completed and before the pipes are covered. The second inspection shall be made 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 Village Clerk/Utilities Superintendent; provided that the said rules, regulations and specifications have been reviewed and approved by the governing body.

(1997 Code, § 3-105) Penalty, see §52.99

Statutory reference:

Related provisions, see Neb. RS 17-537

§ 52.06 INSTALLATION EXPENSE.

(A) The municipality shall pay the cost of tapping the main and providing fixtures and labor up to and including the stop box at the lot line of the customer. No person other than the Village Clerk/Utilities Superintendent or his or her duly authorized agent shall tap the water main. The customer shall pay a tap fee in the amount of \$550 as a minimum or base tap fee; provided, that a tap for a three-quarter inch pipe shall be deemed to be the minimum or base tap fee. The customer shall at his or her own expense bring water service from the stop box and upon his or her own premises and shall employ a licensed plumber who shall install water service to the place of disbursement.

(B) Nonresidents shall pay such tap fees and installation charges in such sums as the Village Clerk/Utilities Superintendent, pursuant to resolution of the governing body, shall in each case fix.

(C) The extension of commercial mains into unsupplied territory within the corporate limits, may be made by means of water extension districts.

(1997 Code, § 3-106) (Ord. passed 12-12-1985; Ord. 30-02, passed 9-10-2002)

§ 52.07 REPAIRS AND MAINTENANCE.

The municipality 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 disbursement. When leaks occur in service pipes, the Village Clerk/Utilities Superintendent shall shut off water service until the leak is repaired at the expense of the customer to the satisfaction of the Village Clerk/Utilities Superintendent.

(1997 Code, § 3-107)

§ 52.08 MINIMUM RATES.

All water consumers shall be liable for the minimum rate provided by ordinance unless and until the consumer shall, by written order, direct the Village Clerk/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.

(1997 Code, § 3-108)

Statutory reference:

Related provisions, see Neb. RS 17-542

§ 52.09 WATER BILLS.

Water bills shall be due and payable monthly, as part of a joint water and sewer bill, at the First State Bank. It shall be the duty of the customers of the Water and Sewer Departments to present themselves monthly at the First State Bank to pay their bills in net cash. The Village Clerk/Utilities Superintendent shall direct the Village Clerk to charge each customer for the water consumed since the last billing together with any other charges, properly itemized, due the Water and Sewer Departments. Bills shall be mailed to each customer between the fifth and the tenth day of each month and shall be payable by the twenty-fifth day of each month. Bills paid after the first day of the next month shall have a penalty charge added thereto in the amount of 15% of the unpaid water bill. Bills not paid by the first day of the next month shall be deemed to be delinquent. 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 within seven days after the sending of said notice, it shall be discretionary with the Superintendent to cut off service at any time; provided, if the delinquent customer is a known welfare recipient, it shall be the duty of the Village Clerk to notify the customer and the Department of Public Welfare by certified mail of the proposed termination. The Village Clerk/Utilities Superintendent shall assess an additional fee in an amount to be established from time to time by resolution of the Village Board in the event that water is shut off for the nonpayment of any water bill, to compensate the municipality for the additional hookup necessary to again provide water service to the delinquent customer.

(1997 Code, § 3-109) (Ord. 97-27, passed 8-12-1997)

Statutory reference:

Related provisions, see Neb. RS 17-542, 18-416

§ 52.10 LIEN.

In addition to all other remedies, if a customer shall for any reason remain indebted to the municipality for water service furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent water rent which is hereby declared to be a lien upon the real estate for which the same was used. 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 water rent. It shall be the duty of the Village Clerk/Utilities Superintendent on June 1 of each year to report to the governing body a list of all unpaid accounts due for water together with a description of the premises upon which the same was used. The report shall be examined, and if approved by the governing body, shall be certified by the Village Clerk to the County Clerk to be collected as a special tax in the manner provided by law.

(1997 Code, § 3-110)

Statutory reference:

Related provisions, see Neb. RS 17-538

§ 52.11 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 Village Clerk/Utilities Superintendent. It shall further be unlawful for any person to tamper with any water meter or by means of any contrivance or device to divert the water from the service pipe so that the water will not pass through the meter or while passing through said meter to cause the meter to register inaccurately.

(1997 Code, § 3-111) Penalty, see §52.99

Statutory reference:

Related provisions, see Neb. RS 17-537

§ 52.12 RESTRICTED USE.

(A) The governing body or the Village Clerk/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 or other good and sufficient cause.

(B) The municipality 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 municipality has no control.

(1997 Code, § 3-112)

Statutory reference:

Related provisions, see Neb. RS 17-537

§ 52.13 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 Fire Chief; or members 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.

(1997 Code, § 3-113) Penalty, see §52.99

§ 52.14 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 Municipal Water Department.

(1997 Code, § 3-114) Penalty, see §52.99

Statutory reference:

Related provisions, see Neb. RS 17-536

§ 52.15 MANDATORY HOOKUP.

All persons within the corporate limits of the municipality shall be required, upon notice by the governing body, to hookup with the municipal water system.

(1997 Code, § 3-115) Penalty, see §52.99

Statutory reference:

Related provisions, see Neb. RS 17-539

§ 52.16 WATER SERVICE CONTRACTS.

(A) 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.

(B) If any consumer shall move from the premises where service is furnished, or if the said premises is destroyed by fire or other casualty, he or she shall at once inform the Village Clerk/Utilities Superintendent who shall cause the water service to be shut off at the said premises.

(C) If the consumer should fail to give such notice, he or she shall be charged for all water used on the said premises until the Village Clerk/Utilities Superintendent is otherwise advised of such circumstances.

(1997 Code, § 3-116)

Statutory reference:

Related provisions, see Neb. RS 17-537

§ 52.17 INSPECTION.

The Village Clerk/Utilities Superintendent, or his or her duly authorized agents, 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.

(1997 Code, § 3-117)

Statutory reference:

Related provisions, see Neb. RS 17-537

§ 52.18 DESTRUCTION OF PROPERTY.

(A) 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 Municipal Water Department.

(B) 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 Village Clerk/Utilities Superintendent.

(1997 Code, § 3-119) Penalty, see §52.99

§ 52.19 BUILDING REGULATIONS; PROHIBITION OF LEAD PIPES, SOLDER AND FLUX.

(A) Any pipe, solders or flux used in the installation or repair of any residential or nonresidential facility which is connected to the public water supply system shall be lead free.

(B) For the purposes of this section, **LEAD FREE** shall mean:

- (1) Solders and flux: not more than 0.2% lead; and
- (2) Pipe and pipe fittings: not more than 8% lead.

(1997 Code, § 3-120) (Ord. 1-88, passed 5-10-1988)

Statutory reference:

Related provisions, see Neb. RS 71-5301

BACKFLOW/BACKSIPHONAGE PREVENTION

§ 52.35 STATEMENT OF POLICY.

(A) *Purpose.* The purpose of this subchapter is:

(1) To protect the public potable water supply of the village water system from contamination or pollution by containing within the consumer's internal distribution system or private water system contaminants or pollutants which could backflow through the service connection into the public potable water supply system;

(2) To promote the elimination, containment, isolation or control of existing cross-connections, actual or potential, between the public or consumer's potable water systems and nonpotable water systems, plumbing fixtures and industrial-process systems; and

(3) To provide for the maintenance of a continuing program of cross-connections control which will systematically and effectively prevent the contamination or pollution of all potable water systems.

(B) *Application.* This subchapter shall apply to all premises served by the public potable water system of the village.

(C) *Policy.* This ordinance will be reasonably interpreted. It is the village's intent to recognize the varying degrees of hazard and to apply the principle that the degree of protection shall be commensurate with the degree of hazard.

(D) *Responsibility.* The Municipal Water Department shall be primarily responsible for protection of the public potable water distribution system from contamination or pollution due to backflow or contaminants or pollutants through the water service connection. The cooperation of all consumers is required to implement and maintain the program to control cross-connections. The consumer is responsible for preventing contamination of the water system within consumer's own premises.

(1997 Code, § 3-121) (Ord. 2-91, passed 4-9-1991)

§ 52.36 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AIR GAP SEPARATION. The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the overflow level rim of the receptacle.

APPROVED TESTER. A person qualified to make inspections; to test and repair backflow prevention/cross-connections control devices; and who is approved by the village.

AUTHORIZED REPRESENTATIVE. Any person designated by the village to administer this cross-connections control ordinance.

AUXILIARY WATER SUPPLY. Any water source system, other than the public water supply, that may be available in the building or premises.

BACKFLOW. The flow other than the intended direction of flow, or any foreign liquids, gases or substances into the distribution system of a public water supply.

BACKFLOW PREVENTION DEVICE. Any device, method or type of construction intended to prevent backflow into a potable water system provided backflow preventers have been tested and approved by a reputable testing laboratory.

BACKSIPHONAGE. The flowing of water, or other foreign liquids, gases or substances into the water distribution system due to negative pressure in the piping of the water distribution system.

CONSUMER. The owner or person in control of any premises supplied by or in any manner connected to a public water system.

CONTAINMENT. Protection of the public water supply by installing a cross-connections control device or air gap separation on the main service line to a facility, or as an installation within equipment handling potentially hazardous materials.

CONTAMINATION. An impairment of the quality of the water by sewage, process fluids or other wastes to a degree which could create the actual hazard to the public health through poisoning or through spread of disease by exposure.

CROSS-CONNECTION. Any physical link, between a potable water supply and any other substance, fluid or source, which makes possible contamination of the potable water supply due to the reversal of flow of the water in the piping or distribution system.

HAZARD DEGREE OF. An evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

(1) **HAZARD-HEALTH.** Any condition, device or practice in the water supply system and its operation which could create or may create a danger to the health and well-being of the water consumer.

(2) **HAZARD-PLUMBING.** A plumbing type cross-connections in a consumer's potable water system that has not been properly protected by a vacuum breaker, air gap separation or backflow prevention device.

(3) **HAZARD-POLLUTIONAL.** An actual or potential threat to the physical properties of the water system or to the consumer's potable water system but which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be dangerous to health.

(4) **HAZARD-SYSTEM.** An actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system, or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.

ISOLATION. Protection of a facility service line by installing a cross-connections control device or air gap separation on an individual fixture, appurtenance or system.

POLLUTION. The presence of any foreign substance (organic, inorganic or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such waters for domestic use.

PUBLIC POTABLE WATER SYSTEM. Any publicly or privately owned water system supplying water to the general public which is satisfactory for drinking, culinary and domestic purposes and meets the requirements of the State Department of Health.

SERVICE CONNECTION. The terminal end of a service line from the public water system. If a meter is installed at the end of the service, then the **SERVICE CONNECTION** means the downstream end of the meter.

WATER DEPARTMENT. The Municipal Water Department of the Village of Loomis, Nebraska.

(1997 Code, § 3-122) (Ord. 2-91, passed 4-9-1991)

§ 52.37 CROSS-CONNECTIONS PROHIBITED.

(A) No water service connection shall be installed or maintained to any premises where actual or potential cross-connections to the public water supply system may exist unless such actual or potential cross-connections are abated or controlled to the satisfaction of the village or its authorized representative.

(B) No connection shall be installed or maintained whereby an auxiliary water supply may enter a public water supply system.

(C) No water service connection shall be installed or maintained to any premises in which the plumbing system, facilities and fixtures have not been constructed and installed using acceptable plumbing practices considered by the Municipal Water Department as necessary for the protection of health and safety.

(1997 Code, § 3-123) (Ord. 2-91, passed 4-9-1991) Penalty, see §52.99

§ 52.38 SURVEY AND INVESTIGATIONS.

(A) The consumer's premises shall be open at all reasonable times to the village or its authorized representative, for the conduction of surveys and investigations of water use practices within the consumer's premises to determine whether there are actual or potential cross-connections in the consumer's water system.

(B) On request by the village or its authorized representative, the consumer shall furnish requested information on water use practices within his or her premises and in the consumer's water system.

(C) On request by the village or its authorized representative, the consumer shall conduct periodic surveys of water use practices on the premises of the consumer's water system to determine whether there are actual or potential cross-connections. The consumer shall provide the survey results to the village or its authorized representative.

(1997 Code, § 3-124) (Ord. 2-91, passed 4-9-1991)

§ 52.39 WHERE PROTECTION IS REQUIRED.

(A) An approved backflow prevention device shall be installed between the service connection and the point of potential backflow into a consumer's water supply system when in the judgment of the village or authorized representative a health, plumbing, pollution or system hazard exists.

(B) An approved air gap separation or reduced pressure principle backflow prevention device shall be installed at the service connection or within any premises where, in the judgment of the Municipal Water Department, the nature and extent of activities on the premises, or the materials used in connection with the activities, or materials stored on the premises, would present an immediate and dangerous hazard to health should a cross-connections occur, even though such cross-connections may not exist at the time the backflow prevention device is required to be installed. This includes, but is not limited to, the following situations:

(1) Premises having an auxiliary water supply, unless the quality of the auxiliary supply is acceptable to the village or its authorized representative and the State Department of Health;

(2) Premises having internal cross-connections that are not correctable, or intricate plumbing arrangements which make it impractical to ascertain whether or not cross-connections exist;

(3) Premises where entry is restricted so that inspections for cross-connections cannot be made with sufficient frequency or at sufficiently short notice to assure the cross-connections do not exist;

(4) Premises having a repeated history of cross-connections being established or re-established;

(5) Premises, which due to the nature of the enterprise therein, are subject to recurring modification or expansion;

(6) Premises on which any substance is handled under pressure so as to permit entry into the public water supply system, or where a cross-connections could reasonably be expected to occur. This shall include the handling of process waters and cooling waters; and

(7) Premises where toxic or hazardous materials are handled.

(C) The following types of facilities fall into one or more of the categories or premises where an approved air gap separation or reduced pressure principle backflow prevention device may be required by the village or its authorized representative or the State Department of Health to protect the public water supply and must be installed at these facilities unless all hazardous or potentially hazardous conditions have been eliminated or corrected by other methods to the satisfaction of the village or its authorized representative and the State Department of Health:

(1) Agricultural chemical facilities;

(2) Auxiliary water systems, wells;

(3) Premises having water recirculating system as used for boilers or cooling systems;

(4) Bulk water loading facilities;

(5) Car washes, automobile servicing facilities;

(6) Chill water systems;

(7) Feedlots;

(8) Fire protection systems;

- (9) Hazardous waste storage and disposal sites;
- (10) Irrigation and lawn sprinkler systems;
- (11) Laundries and dry cleaning;
- (12) Petroleum processing or storage plants;
- (13) Beauty salons;
- (14) Schools;
- (15) Sewage pumping stations; and
- (16) Other commercial or industrial facilities which may constitute potential cross-connection.

(1997 Code, § 3-125) (Ord. 2-91, passed 4-9-1991)

§ 52.40 TYPE OF PROTECTION REQUIRED.

The type of protection required by this subchapter shall depend on the degree of hazard which exists, as follows.

(A) An approved air gap separation shall be installed where the potable water system may be contaminated with substances that could cause a severe health hazard.

(B) An approved air gap separation or an approved reduced pressure principle backflow prevention device shall be installed where the public potable water system may be contaminated with a substance that could cause a health hazard.

(C) An approved air gap separation or an approved reduced pressure principle backflow prevention device or an approved double check valve assembly shall be installed where the public potable water system may be polluted with substances that could cause a pollutional hazard not dangerous to health.

(1997 Code, § 3-126) (Ord. 2-91, passed 4-9-1991)

§ 52.41 BACKFLOW PREVENTION DEVICES.

Any backflow prevention device required by this subchapter shall be of a model or construction approved by the village or its authorized representative and the State Department of Health.

(A) Air gap separation to be approved shall be at twice the diameter of the supply pipe, measured vertically above the top rim of the vessel, but in no case less than one inch.

(B) Double check valve assemblies or reduced pressure principle backflow prevention devices shall appear on the current list of approved backflow prevention devices established by the State Department of Health, unless the device was installed at the time the ordinance codified herein was passed and complies with required inspection and maintenance.

(1997 Code, § 3-127) (Ord. 2-91, passed 4-9-1991)

§ 52.42 INSTALLATION.

(A) Backflow prevention devices required by this policy shall be installed at a location in a manner approved by the village or its authorized agent. All devices shall be installed at the expense of the consumer, unless the village or its authorized representative agrees otherwise.

(B) Backflow prevention devices installed at the service connection shall be located on the consumer's side of the water meter (if one is installed) or the corporation stop, as close to the meter or corporation stop as is reasonably practical, and prior to any other connection.

(C) Backflow prevention devices shall be conveniently accessible for maintenance and testing, protected from freezing, and where no part of the device will be submerged or subject to flooding by any fluid. All devices shall be installed according to manufacturer's recommendations.

(1997 Code, § 3-128) (Ord. 2-91, passed 4-9-1991)

§ 52.43 TESTING.

Backflow and backsiphonage prevention devices designed to be tested shall be tested for proper operation annually or when necessary in the opinion of the village or its authorized representative. Actual testing shall be at the expense of the consumer, unless the village or its authorized representative agrees otherwise. Any required maintenance or repairs shall be at the expense of the consumer and subject to the approval of the village. If testing shall require entry into the premises, the village's authorized representative shall give notice setting forth a proposed date and time to the consumer at least ten working days in advance by first class mail return receipt requested. If the consumer cannot make the premises available for inspection on that date and time, the consumer shall contact the village's authorized representative to arrange another date and time.

(1997 Code, § 3-129) (Ord. 2-91, passed 4-9-1991)

§ 52.44 AUTHORIZED REPRESENTATIVE; AUTHORITY.

The authorized representative shall have the authority to issue any order consistent with the provisions of this subchapter in order to protect the public health and safety. Any order of the authorized representative shall be in writing and shall clearly state the nature of the order, compliance requirements and set a reasonable date by which compliance must be met. All orders will be mailed to the consumer by First Class mail, return receipts requested.

(1997 Code, § 3-130) (Ord. 2-91, passed 4-9-1991)

§ 52.45 APPEALS.

(A) In the event that it is claimed that the true intent and meaning of this subchapter has been wrongfully interpreted by the authorized representative; that the time allowed for compliance with any order of the authorized representative is too short; or that conditions peculiar to a particular premises make it unreasonably difficult to meet the literal requirements prescribed by this chapter, the owner may file a written notice of appeal with the Village Clerk within ten days after the decision or order of the authorized representative has been made. The governing body shall hear all appeals and shall have the power and authority, when appealed to, to modify the decision or order of the authorized representative. Such a decision shall be final, subject only to any remedy which the aggrieved party may have at law or equity.

(B) Appeals shall be in writing and shall state the reason for the appeal.

(1997 Code, § 3-131) (Ord. 2-91, passed 4-9-1991)

§ 52.46 VIOLATIONS.

(A) The village or its authorized representative shall deny or discontinue the water service to any premises or any consumer wherein any backflow prevention device required by this policy is not installed, tested and maintained in a manner acceptable to the village or its authorized representative, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross-connections exists.

(B) Water service to such premises shall not be restored until the consumer is in compliance with this subchapter to the satisfaction of the village or its authorized representative.

(1997 Code, § 3-132) (Ord. 2-91, passed 4-9-1991) Penalty, see §52.99

§ 52.47 LIABILITY CLAIMS.

(A) The authorized representative shall be relieved from personal liability.

(B) The village shall hold harmless the authorized representative when acting in good faith and without malice, from all personal liability for any damage that may occur to any person or property as a result of any act required or authorized by this subchapter, or by reason of any act or omission of the authorized representative in the discharge of his or her duties hereunder.

(C) Any suit brought carrying out the provisions of the subchapter shall be defended by the village, or the village's insurance carrier, if any, through final determination of such proceeding.

(1997 Code, § 3-133) (Ord. 2-91, passed 4-9-1991)

WATER WELLS

§ 52.60 DRILLING AND OPERATION OF WELLS AND OTHER UNDERGROUND FACILITIES WITHOUT PERMIT UNLAWFUL.

It shall be unlawful for any person, corporation or other entity to drill and/or operate any of the following facilities within the corporate limits or zoning jurisdiction of the village without first having obtained the proper permit from the governing body of the village: potable water well; any other well; sewage lagoon; absorption or disposal field for water; cesspool; dumping grounds; feedlot; livestock pasture or corral; chemical product storage facility; petroleum product storage facility; pit toilet; sanitary landfill; septic tank; sewage treatment plant; sewage wet well.

(1997 Code, § 3-134) (Ord. 01-02, passed 3-12-2002) Penalty, see §52.99

§ 52.61 UTILIZING THE GEOTHERMAL PROPERTIES OF THE GROUND.

Any person, corporation or other legal entity given authorization by permit to utilize the geothermal properties of the ground shall be subject to each and all of the following regulations:

- (A) Must be a closed loop system;
- (B) Joints must be made by heat fusion;
- (C) Antifreeze must be potassium acetate, propylene glycol or other food grade substance;
- (D) Wells must be scaled from bottom to top with a cement slurry;
- (E) Piping must consist of polybutylene or polyethylene pipe; and

(F) Must be located no closer than 100 feet to the village's drinking water source.

(1997 Code, § 3-135) (Ord. 01-02, passed 3-12-2002) Penalty, see §52.99

§ 52.62 PROCEDURE TO OBTAIN PERMIT.

In order to obtain a permit to drill and/or operate any of the facilities listed in §§2.60 and 52.61, the owner of the property on which the proposed facility is to be located must make application on the proper form provided by the governing body of the village. Such application must be presented to the Board of Trustees at any regular or special meeting. After reviewing the application of any person desiring to drill or operate any of the above-described facilities, the Board of Trustees must approve or deny said permit.

(1997 Code, § 3-136) (Ord. 01-02, passed 3-12-2002) Penalty, see §52.99

§ 52.63 DRILLING OR INSTALLATION OF OTHER FACILITIES WITHIN DESIGNATED DISTANCE FROM MUNICIPAL WATER SOURCES IS PROHIBITED.

(A) Under no circumstances shall the Board of Trustees approve any permit to drill or operate any of the below-described facilities within the indicated number of feet from the village's municipal water wells.

- (1) Potable water well: 1,000 feet;
- (2) Closed loop geothermal well: 100 feet;
- (3) Any other well: 1,000 feet;
- (4) Sewage lagoon: 1,000 feet;
- (5) Absorption or disposal field for water: 500 feet;
- (6) Cesspool: 500 feet;
- (7) Dumping grounds: 500 feet;
- (8) Feedlot or feedlot runoff: 500 feet;
- (9) Livestock pasture or corral: 500 feet;
- (10) Chemical product storage facility: 500 feet;
- (11) Petroleum product storage facility: 500 feet;
- (12) Pit toilet: 500 feet;
- (13) Sanitary landfill: 500 feet;
- (14) Septic tank: 500 feet;
- (15) Sewage treatment plant: 500 feet; and
- (16) Sewage wet well: 500 feet.

(B) If State Regulation Title 179, Chapter 2, amends any of the minimum footages set forth above, the footages set forth above shall likewise be deemed automatically amended consistent with such revisions.

(1997 Code, § 3-137) (Ord. 01-02, passed 3-12-2002)

§ 52.99 PENALTY.

(A) (1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500.

(2) A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) 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.

(1997 Code, § 3-701) (Ord. 00-12, passed 6-13-2000)

Statutory reference:

Related provisions, see Neb. RS 17-207, 17-505, 18-1720, 18-1722

CHAPTER 53: SEWER

Section

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§ 53.01 OPERATION AND FUNDING.

(A) The municipality owns and operates the municipal sewer system through the Village Clerk/Utilities Superintendent.

(B) For the purpose of defraying the cost of the maintenance and repairing of any sewer or water utilities in the municipality, the governing body may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all taxable property in the municipality. The revenue from the tax shall be known as the Water and Sewer Maintenance Fund and shall be used exclusively for the purpose of maintenance and repairs of the water and sewer system.

(C) The Village Clerk/Utilities Superintendent shall have the direct management and control of the Sewer Department, shall faithfully carry out the duties of the office, and 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 governing body.

(1997 Code, § 3-201) (Ord. 98-19, passed 7-14-1998)

Statutory reference:

Related provisions, see Neb. RS 17-925.01

§ 53.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING OR HOUSE SEWER. Includes the part of a house or building drainage system extending from the house or building drain to its connection with the main sewer.

SANITARY SEWER. A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

SEWAGE. Includes 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.

SEWER SYSTEM. Includes all facilities for collecting, pumping, treating and disposing of sewage.

(1997 Code, § 3-202)

§ 53.03 APPLICATION FOR PERMIT.

Any person wishing to connect with the sewer system shall make an application therefor to the Village Clerk/Utilities Superintendent. The Superintendent may require any applicant to make a service deposit as set out in § 52.03. Sewer service may not be supplied to any house or building except upon the order of the Superintendent. The Department shall not supply sewer service to any person outside the corporate limits.

(1997 Code, § 3-203) Penalty, see § 53.99

Statutory reference:

Related provisions, see Neb. RS 17-902

§ 53.04 SEWER CONTRACT.

The municipality through the Municipal Sewer Department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The rules, regulations and sewer rental rates hereinafter named in this subchapter, 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. Without further formality, 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 municipality 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 regulations that the governing body may hereafter adopt, the Village Clerk/Utilities Superintendent, or his or her agent, may cut off or disconnect the sewer service from the building or premises of such violation. No further connection for sewer service to said building or premises shall again be made save or except by order of the Superintendent or his or her agent.

(1997 Code, § 3-204)

§ 53.05 MANDATORY HOOK-UP.

Upon written notice by the Village Clerk/Utilities Superintendent the property owner, occupant or lessee of any premises within 300 feet of any sewer main shall without delay cause the said building to be connected with the sewer system and equipped with inside sewerage facilities. Every building hereafter erected shall be connected with the sewer system at the time of its construction. In the event that any property owner, occupant or lessee shall neglect, fail or refuse, within a period of ten 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 municipality, to make such connection, the governing body 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.

(1997 Code, § 3-205)

Statutory reference:

Related provisions, see Neb. RS 17-149, 17-149.01

§ 53.06 DIRECT CONNECTIONS.

Each and every building must make a direct connection with the main sewer line. Under no circumstances will two or more houses be allowed to make such connections through one pipe.

(1997 Code, § 3-206)

§ 53.07 SERVICE CONTRACTS.

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 move from the premises where service is furnished, or if the said premises is destroyed by fire or other casualty, he or she shall at once inform the Village Clerk/Utilities Superintendent who shall cause the sewer service to be shut off from the said premises. If the customer should fail to give notice, he or she shall be charged for that period of time until the official in charge of sewers is otherwise advised of such circumstances.

(1997 Code, § 3-207)

§ 53.08 INSTALLATION PROCEDURE.

(A) In making excavations in streets, alleys or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage.

(B) 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. After the house sewer is laid, the public ways and property shall be restored to good condition. If the excavation in the public ways and property is left open or unfinished for a period of 24 hours or more, the

Village Clerk/Utilities Superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the owner, occupant or lessee of the property.

(C) All installations or repairs of pipes require two inspections by the Village Clerk/Utilities Superintendent. The first inspection shall be made when connections or repairs are complete and before the pipes are covered. The second inspection shall be made after the dirt work is completed and the service restored. It is the customers responsibility to notify the Village Clerk/Utilities Superintendent at the time the work is ready for each inspection, and to pay an inspection fee in an amount set by resolution of the governing body and on file with the Village Clerk.

(D) All installation shall be done under the supervision and strictly in accordance with the rules, regulations and specifications for such installation prescribed by the Village Clerk/Utilities Superintendent; provided, that the said rules, regulations and specifications have been reviewed and approved by the governing body.

(1997 Code, § 3-208) Penalty, see §53.99

§ 53.09 INSTALLATION EXPENSE.

The customer, upon approval of his or her application for sewer service, shall hire a licensed plumber to tap the main. The customer shall then be required to pay the expense of procuring the materials required as well as the services of a licensed plumber and shall pay all other costs of installation. The customer shall be responsible for providing fill sand or tamping, and for returning the street, curbs and other public appurtenances to their original or like original condition.

(1997 Code, § 3-209)

§ 53.10 REPAIRS AND REPLACEMENT.

(A) The Municipal Sewer Department may require the owner of any property which is within the municipality 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.

(B) 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 Village Clerk/ Superintendent may cause such work to be done and assess the cost upon the property served by such connection.

(1997 Code, § 3-210) (Ord. 176, passed 9-11-1984)

Statutory reference:

Related provisions, see Neb. RS 18-1748

§ 53.11 CLASSIFICATION.

The governing body may classify for the purpose of rental fees the customers of the Municipal Sewer Department; provided, that such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers.

(1997 Code, § 3-211)

Statutory reference:

Related provisions, see Neb. RS 17-925.02

§ 53.12 RATE SETTING.

The governing body shall set sewer rates based upon water usage except as hereafter provided. Non-resident customers shall pay an additional rate which shall be added to the customer's bill. All rates shall be on file at the office of the Village Clerk for public inspection.

(1997 Code, § 3-212)

§ 53.13 SEWER RENTAL BILLS.

Sewer rental bills shall be due and payable, as part of a joint water and sewer bill, in the manner provided in §2.09.

(1997 Code, § 3-213)

§ 53.14 UNLAWFUL USE.

(A) 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, including interior and exterior foundation drains, or residential and industrial uncontaminated cooling waters or unpolluted industrial process waters into the sanitary sewer.

(B) Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes into the municipal sewer system:

- (1) Liquids or vapors having a temperature higher than 150°F;
- (2) Water or waste which may contain more than 100 parts per million by weight of fat, oil or grease;
- (3) Gasoline, benzene, naptha, fuel oil, other flammable or explosive liquid, solid or gas;
- (4) Garbage that has not been properly shredded;
- (5) Sand, mud, metal, rags, paper or other solid or viscous substance capable of causing obstruction to the flow in the sewer system;
- (6) Toxic or poisonous substances in sufficient quantity to interfere with or injure the sewage treatment process, constitute a hazard to humans, animals or fish, or create any hazard in the receiving area of the sewage treatment plant;
- (7) Suspended solids of such character and quantity that unusual attention or expense is required to handle such materials;
- (8) Waters or wastes having a pH lower than 5.5 or higher than 9.0 or having other corrosive properties capable of causing damage to the structures, equipment and personnel of the Municipal Sewer Department; or
- (9) Any noxious or malodorous gas or substance capable of creating a public nuisance.

(C) The contributor of any identifiable discharge of polluted water into the sanitary sewer system shall be held responsible for reimbursing the municipality for such costs. The costs shall be determined by the Superintendent with the approval of the governing body.

(1997 Code, § 3-214) (Ord. 181, passed 12-11-1984) Penalty, see §53.99

Statutory reference:

Related provisions, see Neb. RS 17-145

§ 53.15 SPECIAL EQUIPMENT.

(A) In the event a customer of the Municipal Sewer Department discharges an unusually large amount of waste daily, an unusually large amount of grease or oil, or waste with an unusually high biochemical oxygen demand the chief sewer official may require the said customer to install interceptors or other preliminary treatment equipment to reduce the objectionable characteristics of the waste to within such maximum limits as he or she shall prescribe subject to the review of the governing body.

(B) All preliminary treatment facilities shall be purchased and maintained continuously in satisfactory and efficient operation at the customer's expense.

(C) Nothing herein shall be construed to prohibit a special agreement or arrangement between the governing body and an industrial concern whereby an industrial waste of unusual strength or character may be accepted by the municipality for treatment subject to additional rental fees or other charges.

(1997 Code, § 3-215)

§ 53.16 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 sewer system.

(1997 Code, § 3-216) Penalty, see §53.99

§ 53.17 INSPECTIONS.

The chief sewer official or his or her authorized agents shall have free access at any reasonable time to all parts of each premises and building which is connected with the sewer system to ascertain whether there is any disrepair or violations of this subchapter therein.

(1997 Code, § 3-217)

§ 53.18 LIEN.

In addition to all other remedies, if a customer shall for any reason remain indebted to the municipality for sewer service furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent sewer 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 sewer rent. It shall be the duty of the Village Clerk/Utilities Superintendent on June 1 of each year to report to the governing body a list of all unpaid accounts due for sewer service together with a description of the premises served. The report shall be examined, and if approved by the governing body, shall be certified

by the Village Clerk to the County Clerk to be collected as a special tax in the manner provided by law.

(1997 Code, § 3-218)

Statutory reference:

Related provisions, see Neb. RS 17-925.01

§ 53.19 PLUMBING CODE.

To provide certain minimum standards, provisions and requirements for safe and stable installation, methods of connection and uses of materials in the installation of plumbing and heating, the National Standard Plumbing Code, 1990 Edition, published by the National Association of P-H-C Contractors and printed in book or pamphlet form, is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said code does not conflict with the statutes of the state. One copy of the Plumbing Code is on file at the office of the Village Clerk and is available for public inspection at any reasonable time. The provisions of the Plumbing Code shall be controlling throughout the municipality and throughout its zoning jurisdiction.

(1997 Code, § 3-219) (Ord. 1-91, passed 2-12-1991)

Statutory reference:

Related provisions, see Neb. RS 17-1001, 18-132, 19-902, 19-922

§ 53.99 PENALTY.

(A) (1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500.

(2) A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) 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.

(1997 Code, § 3-701) (Ord. 00-12, passed 6-13-2000)

Statutory reference:

Related provisions, see Neb. RS 17-207, 17-505, 18-1720, 18-1722

TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS
- 71. TRAFFIC REGULATIONS
- 72. PARKING REGULATIONS
- 73. ALL-TERRAIN VEHICLES AND UTILITY-TYPE VEHICLES
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CHAPTER 70: GENERAL PROVISIONS

Section

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- 70.02 Traffic regulations; general authority
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Statutory reference:

Nebraska Rules of the Road, see Neb. RS 60-601

§ 70.01 DEFINITIONS.

For the purpose of this title, the following definitions and the other definitions in Neb. RS 60-606 through 60-676 shall apply unless the context clearly indicates or requires a different meaning.

ALLEY. A highway intended to provide access to the rear or side of lots or buildings and not intended for the purpose of through vehicular traffic.

(Neb. RS 60-607)

AUTHORIZED EMERGENCY VEHICLE. Such fire department vehicles, police vehicles, rescue vehicles, and ambulances as are publicly owned, such other publicly or privately owned vehicles as are designated by the Director of Motor Vehicles, and such publicly owned military vehicles of the National Guard as are designated by the Adjutant General pursuant to Neb. RS 55-133.

(Neb. RS 60-610)

BUSINESS DISTRICT. The territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including, but not limited to, hotels, banks, office buildings, railroad stations, or public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of a highway.

(Neb. RS 60-613)

HIGHWAY. 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. RS 60-624)

MANUAL. The Manual on Uniform Traffic Control Devices adopted by the Department of Transportation pursuant to Neb. RS 60-6,118.

(Neb. RS 60-631)

MOTOR VEHICLE. Every self-propelled land vehicle, not operated upon rails, except bicycles, mopeds, self-propelled chairs used by persons who are disabled, and electric personal assistive mobility devices.

(Neb. RS 60-638)

PEACE OFFICER. The Village Marshal or other chief law enforcement official, any village police officer, or any other person authorized to enforce village ordinances. With respect to directing traffic only, peace officer shall also include any person authorized to direct or regulate traffic.

(Neb. RS 60-646)

RESIDENTIAL DISTRICT. The territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business.

(Neb. RS 60-654)

ROADWAY. That portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two or more separate roadways, the term roadway shall refer to any such roadway separately but not to all such roadways collectively.

(Neb. RS 60-656)

SCHOOL CROSSING ZONE. The area of a roadway designated to the public by the Board of Trustees as a school crossing zone through the use of a sign or traffic control device as specified by the Board in conformity with the Manual but does not include any area of a freeway. A school crossing zone starts at the location of the first sign or traffic control device identifying the school crossing zone and continues until a sign or traffic control device indicates that the school crossing

zone has ended.

(Neb. RS 60-658.01)

SHOULDER. That part of the highway contiguous to the roadway and designed for the accommodation of stopped vehicles, for emergency use, and for lateral support of the base and surface courses of the roadway.

(Neb. RS 60-661)

TRAFFIC. Pedestrians, ridden or herded animals, and vehicles and other conveyances either singly or together while using any highway for purposes of travel.

(Neb. RS 60-669)

TRAFFIC CONTROL DEVICE. Any sign, signal, marking, or other device not inconsistent with the Nebraska Rules of the Road placed or erected by authority of the Board of Trustees or any official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

(Neb. RS 60-670)

TRAFFIC CONTROL SIGNAL. Any signal, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

(Neb. RS 60-671)

TRAFFIC INFRACTION. The violation of any provision of the Nebraska Rules of the Road or of any law, ordinance, order, rule, or regulation regulating traffic which is not otherwise declared to be a misdemeanor or a felony or, in this title, an offense.

(Neb. RS 60-672)

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway except devices moved solely by human power or used exclusively upon stationary rails or tracks.

(Neb. RS 60-676)

§ 70.02 TRAFFIC REGULATIONS; GENERAL AUTHORITY.

(A) The Board of Trustees may, in its jurisdiction, enact regulations permitting, prohibiting, and controlling the use of motor vehicles, minibikes, motorcycles, off-road recreation vehicles of any and all types, other powered vehicles, electric personal assistive mobility devices, and vehicles which are not self-propelled. Any person who operates any of such vehicles without the permission of the Board or its designated representative or in a place, time, or manner which has been prohibited by the Board shall be guilty of an offense.

(B) The Board may further authorize the supervising official of any area under its ownership or control to permit, control, or prohibit operation of any motor vehicle, minibike, motorcycle, off-road recreational vehicle of any or all types, other powered vehicle, electric personal assistive mobility device, or vehicle which is not self-propelled on all or any portion of any area under its ownership or control at any time by posting or, in case of an emergency, by personal notice. Any person operating any such vehicle where prohibited, where not permitted, or in a manner so as to endanger the peace and safety of the public or as to harm or destroy the natural features or manmade features of any such area shall be guilty of an offense.

(Neb. RS 60-678) Penalty, see §10.99

§ 70.03 REGULATION OF HIGHWAYS; POLICE POWERS.

(A) The Board of Trustees with respect to highways under its jurisdiction and within the reasonable exercise of the police power may:

- (1) Regulate or prohibit stopping, standing, or parking;
- (2) Regulate traffic by means of peace officers or traffic control devices;
- (3) Regulate or prohibit processions or assemblages on the highways;
- (4) Designate highways or roadways for use by traffic moving in one direction;
- (5) Establish speed limits for vehicles in public parks;
- (6) Designate any highway as a through highway or designate any intersection as a stop or yield intersection;
- (7) Restrict the use of highways as authorized in §70.04;
- (8) Regulate operation of bicycles and require registration and inspection of such, including requirement of a registration fee;
- (9) Regulate operation of electric personal assistive mobility devices;
- (10) Regulate or prohibit the turning of vehicles or specified types of vehicles;

- (11) Alter or establish speed limits authorized in the Nebraska Rules of the Road;
- (12) Designate no-passing zones;
- (13) Prohibit or regulate use of controlled-access highways by any class or kind of traffic except those highways which are a part of the state highway system;
- (14) Prohibit or regulate use of heavily traveled highways by any class or kind of traffic it finds to be incompatible with the normal and safe movement of traffic, except that such regulations shall not be effective on any highway which is part of the state highway system unless authorized by the Department of Transportation;
- (15) Establish minimum speed limits as authorized in the Rules;
- (16) Designate hazardous railroad grade crossings as authorized in the Rules;
- (17) Designate and regulate traffic on play streets;
- (18) Prohibit pedestrians from crossing a roadway in a business district or any designated highway except in a crosswalk as authorized in the Rules;
- (19) Restrict pedestrian crossings at unmarked crosswalks as authorized in the Rules;
- (20) Regulate persons propelling push carts;
- (21) Regulate persons upon skates, coasters, sleds, and other toy vehicles;
- (22) (a) Notwithstanding any other provision of law, adopt and enforce an ordinance or resolution prohibiting the use of engine brakes on the National System of Interstate and Defense Highways that has a grade of less than five degrees within its jurisdiction.
(b) For the purpose of this division, the following definition shall apply unless the context clearly indicates or requires a different meaning.

ENGINE BRAKE. A device that converts a power producing engine into a power-absorbing air compressor, resulting in a net energy loss;

(23) Adopt and enforce such temporary or experimental regulations as may be necessary to cover emergencies or special conditions; and

(24) Adopt other traffic regulations except as prohibited by state law or contrary to state law.

(B) The Board of Trustees shall not erect or maintain any traffic control device at any location so as to require the traffic on any state highway or state-maintained freeway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the Department of Transportation.

(C) No ordinance or regulation enacted under division (A)(4), (5), (6), (7), (10), (11), (12), (13), (14), (16), (17), or (19) shall be effective until traffic control devices giving notice of such local traffic regulations are erected upon or at the entrances to such affected highway or part thereof affected as may be most appropriate.

(Neb. RS 60-680)

§ 70.04 PROHIBITIONS ON OPERATION OF VEHICLES.

(A) The Board of Trustees may by ordinance or resolution prohibit the operation of vehicles upon any highway or impose restrictions as to the weight of vehicles, for a total period not to exceed 180 days in any one calendar year, when operated upon any highway under the jurisdiction of and for the maintenance of which the Board is responsible whenever any such highway by reason of deterioration, rain, snow, or other climatic condition will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weight thereof reduced. The Board shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution at each end of that portion of any highway affected thereby, and the ordinance or resolution shall not be effective until such signs are erected and maintained.

(B) The Board may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles or impose limitations as to the weight thereof on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on such highways.

(Neb. RS 60-681)

§ 70.05 ORDINANCES CONTRARY TO STATE LAW PROHIBITED.

The Board of Trustees shall not enact or enforce any ordinance directly contrary to the Nebraska Rules of the Road unless expressly authorized by the Legislature.

(Neb. RS 60-6,108)

§ 70.06 PLACEMENT AND MAINTENANCE OF TRAFFIC CONTROL DEVICES.

The Board of Trustees shall place and maintain such traffic control devices upon highways under its jurisdiction as it

deems necessary to indicate and to carry out the provisions of this title or to regulate, warn, or guide traffic. All such traffic control devices erected pursuant to this title shall conform with the Manual.

(Neb. RS 60-6,121)

§ 70.07 ENFORCEMENT OF RULES AND LAWS.

(A) All peace officers are hereby specifically directed and authorized and it shall be deemed and considered a part of the official duties of each of such officers to enforce the provisions of Nebraska Rules of the Road and this title, including the specific enforcement of maximum speed limits, and any other state or village law regulating the operation of vehicles or the use of the highways.

(B) To perform the official duties imposed by this section, peace officers shall have the power:

(1) To make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of the Motor Vehicle Operator's License Act or this title or of any other law regulating the operation of vehicles or the use of the highways, if and when designated or called upon to do so as provided by law;

(2) To make arrests upon view and without warrant for any violation committed in their presence of any provision of the laws of this state relating to misdemeanors or felonies or of similar village ordinances if and when designated or called upon to do so as provided by law;

(3) At all times to direct all traffic in conformity with law or, in the event of a fire or other emergency or in order to expedite traffic or insure safety, to direct traffic as conditions may require;

(4) When in uniform, to require the driver of a vehicle to stop and exhibit his or her operator's license and registration certificate issued for the vehicle and submit to an inspection of such vehicle and the license plates and registration certificate for the vehicle and to require the driver of a motor vehicle to present the vehicle within five days for correction of any defects revealed by such motor vehicle inspection as may lead the inspecting officer to reasonably believe that such motor vehicle is being operated in violation of the statutes of Nebraska, the rules and regulations of the Director of Motor Vehicles, or any village ordinance or regulation;

(5) To inspect any vehicle of a type required to be registered according to law in any public garage or repair shop or in any place where such a vehicle is held for sale or wrecking;

(6) To serve warrants relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways; and

(7) To investigate traffic accidents for the purpose of carrying on a study of traffic accidents and enforcing motor vehicle and highway safety laws.

(Neb. RS 60-683)

Statutory reference:

Motor Vehicle Operator's License Act, see Neb. RS 60-462

§ 70.08 FAILURE OR REFUSAL TO OBEY ORDER.

(A) Any person who knowingly fails or refuses to obey any lawful order of any peace officer who is controlling or directing traffic shall be guilty of a traffic infraction.

Penalty, see § 70.99

(B) Any person who knowingly fails to obey any lawful order of a peace officer shall be guilty of an offense whenever such order is given in furtherance of the apprehension of a person who has violated the Nebraska Rules of the Road or this title or of a person whom such officer reasonably believes has violated the Rules or this title.

(Neb. RS 60-6,110) Penalty, see § 10.99

§ 70.09 OBEDIENCE TO TRAFFIC CONTROL DEVICES; EXCEPTIONS.

(A) The driver of any vehicle shall obey the instructions of any traffic control device applicable thereto placed in accordance with the Nebraska Rules of the Road or this title, unless otherwise directed by a peace officer, subject to the exceptions granted the driver of an authorized emergency vehicle in the Rules and this title.

(B) No provision of the Rules or this title for which traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by a reasonably observant person. Whenever any provision of the Rules or this title does not state that traffic control devices are required, such provision shall be effective even though no devices are erected or in place.

(C) Whenever traffic control devices are placed in position approximately conforming to the requirements of the Rules or this title, such devices shall be presumed to have been so placed by the official act or direction of lawful authority unless the contrary is established by competent evidence.

(D) Any traffic control device placed pursuant to the Rules or this title and purporting to conform with the lawful

requirements pertaining to such devices shall be presumed to comply with the requirements of the Rules or this title unless the contrary is established by competent evidence.

(Neb. RS 60-6,119) Penalty, see § 70.99

§ 70.10 AUTHORIZED EMERGENCY VEHICLES; PRIVILEGES.

(A) Subject to the conditions stated in the Nebraska Rules of the Road and this title, the driver of an authorized emergency vehicle, when responding to an emergency call, when pursuing an actual or suspected violator of the law, or when responding to but not when returning from a fire alarm, may:

(1) Stop, park, or stand, irrespective of the provisions of the Rules and this title, and disregard regulations governing direction of movement or turning in specified directions; and

(2) Except for wreckers towing disabled vehicles and highway maintenance vehicles and equipment:

(a) Proceed past a steady red indication, a flashing red indication, or a stop sign but only after slowing down as may be necessary for safe operation; and

(b) Exceed the maximum speed limits so long as he or she does not endanger life, limb, or property.

(B) Except when operated as a police vehicle, the exemptions granted in division (A) shall apply only when the driver of such vehicle, while in motion, sounds an audible signal by bell, siren, or exhaust whistle as may be reasonably necessary and when such vehicle is equipped with at least one lighted light displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle.

(C) The exemptions granted in division (A) shall not relieve the driver from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect such driver from the consequences of his or her reckless disregard for the safety of others.

(D) Authorized emergency vehicles operated by police and fire departments shall not be subject to the size and weight limitations of sections Neb. RS 60-6,288 to 60-6,290 and 60-6,294.

(Neb. RS 60-6,114)

§ 70.11 TRAFFIC OFFICERS.

The Board of Trustees 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 that may have been placed at any such intersection.

Penalty, see § 70.99

§ 70.99 TRAFFIC INFRACTIONS; PENALTY.

(A) Unless otherwise declared in this title with respect to particular offenses, a violation of any provision of this title shall constitute a traffic infraction.

(Neb. RS 60-682)

(B) Any person who is found guilty of a traffic infraction in violation of this title for which a penalty has not been specifically provided shall be fined:

(1) Not more than \$100 for the first offense;

(2) Not more than \$200 for a second offense within a one-year period; and

(3) Not more than \$300 for a third and subsequent offense within a one-year period.

(Neb. RS 60-689)

Statutory reference:

Other provisions on traffic infractions, see Neb. RS 60-684 through 60-694.01

CHAPTER 71: TRAFFIC REGULATIONS

Section

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GENERAL PROVISIONS

§ 71.01 RESTRICTIONS ON DIRECTION OF TRAVEL.

(A) The Board of Trustees with respect to highways under its jurisdiction may designate any highway, roadway, part of a roadway, or specific lanes upon which vehicular traffic shall proceed in one direction at all times or at such times as shall be indicated by traffic control devices.

(B) Except for emergency vehicles, no vehicle shall be operated, backed, pushed, or otherwise caused to move in a direction which is opposite to the direction designated by competent authority on any deceleration lane, acceleration lane, access ramp, shoulder, or roadway.

(C) A vehicle which passes around a rotary traffic island shall be driven only to the right of such island.

(Neb. RS 60-6,138)

§ 71.02 RIGHT-OF-WAY; STOP AND YIELD SIGNS.

(A) The Board of Trustees may provide for preferential right-of-way at an intersection and indicate such by stop signs or yield signs erected by such authorities.

(B) Except when directed to proceed by a peace officer or traffic control signal, every driver of a vehicle approaching an intersection where a stop is indicated by a stop sign shall stop at a clearly marked stop line or shall stop, if there is no such line, before entering the crosswalk on the near side of the intersection or, if no crosswalk is indicated, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. After having stopped, such driver shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on such highway as to constitute an immediate hazard if such driver moved across or into such intersection.

(C) The driver of a vehicle approaching a yield sign shall slow to a speed reasonable under the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line or shall stop, if there is no such line, before entering the crosswalk on the near side of the intersection or, if no crosswalk is indicated, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, such driver shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard if such driver moved across or into such intersection.

(Neb. RS 60-6,148) Penalty, see § 70.99

§ 71.03 INTERFERENCE WITH TRAFFIC CONTROL DEVICES OR RAILROAD SIGNS OR SIGNALS.

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any traffic control device, any railroad sign or signal, or any part of such a device, sign, or signal.

(Neb. RS 60-6,129) Penalty, see § 70.99

§ 71.04 SIGNS, MARKERS, DEVICES, OR NOTICES; PROHIBITED ACTS.

(A) Any person who willfully or maliciously shoots upon the public highway and injures, defaces, damages, or destroys any signs, monuments, road markers, traffic control devices, traffic surveillance devices, or other public notices lawfully placed upon such highways shall be guilty of an offense.

(B) No person shall willfully or maliciously injure, deface, alter, or knock down any sign, traffic control device, or traffic surveillance device.

(C) It shall be unlawful for any person, other than a duly authorized representative of the Department of Transportation, the county, or the village, to remove any sign, traffic control device, or traffic surveillance device placed along a highway for traffic control, warning, or informational purposes by official action of the department, county, or village. It shall be unlawful for any person to possess a sign or device which has been removed in violation of this division.

(D) Any person violating division (B) or (C) of this section shall be guilty of an offense and shall be assessed liquidated damages in the amount of the value of the sign, traffic control device, or traffic surveillance device and the cost of replacing it.

(Neb. RS 60-6,130) Penalty, see § 10.99

§ 71.05 TIRE REQUIREMENTS AND PROHIBITIONS; PERMISSIVE USES.

(A) Every solid rubber tire on a vehicle moved on any highway shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

(B) No tire on a vehicle moved on a highway shall have on its periphery any clock, stud, flange, cleat, or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that:

(1) This prohibition shall not apply to pneumatic tires with metal or metal-type studs not exceeding 5/16 of an inch in diameter inclusive of the stud-casing with an average protrusion beyond the tread surface of not more than 7/64 of an inch between November 1 and April 1, except that school buses, mail carrier vehicles, and emergency vehicles shall be permitted to use metal or metal-type studs at any time during the year;

(2) It shall be permissible to use farm machinery with tires having protuberances which will not injure the highway; and

(3) It shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other condition tending to cause a vehicle to slide or skid.

(C) (1) No person shall operate or move on any highway any motor vehicle, trailer, or semitrailer:

(a) Having any metal tire in contact with the roadway; or

(b) Equipped with solid rubber tires.

(2) Division (C)(1) shall not apply to farm vehicles having a gross weight of 10,000 pounds or less or to implements of husbandry.

(D) The village may, in its discretion, issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery.

(Neb. RS 60-6,250)

Statutory reference:

Rubber tired cranes, see Neb. RS 60-6,288

SPEED LIMITS

§ 71.20 BASIC RULE.

No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. A person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(Neb. RS 60-6,185) Penalty, see § 70.99

§ 71.21 MAXIMUM LIMITS.

(A) Except when a special hazard exists that requires lower speed for compliance with §71.20, the limits set forth in this section and Neb. RS 60-6,187, 60-6,188, 60-6,305, and 60-6,313 shall be the maximum lawful speeds unless reduced pursuant to division (B), and no person shall drive a vehicle on a highway at a speed in excess of such maximum limits:

(1) Twenty-five miles per hour in any residential district;

(2) Twenty miles per hour in any business district;

(3) Fifty miles per hour upon any highway that is gravel or not dustless surfaced;

(4) Fifty-five miles per hour upon any dustless-surfaced highway not a part of the state highway system;

(5) Sixty-five miles per hour upon any four-lane divided highway not a part of the state highway system;

(6) Sixty-five miles per hour upon any part of the state highway system other than an expressway, a super-two

highway, or a freeway.

(B) The maximum speed limits established in division (A) may be reduced by the Department of Transportation or the Board of Trustees pursuant to § 71.23 or Neb. RS 60-6,188.

(C) The Board may erect and maintain suitable signs along highways under its jurisdiction in such number and at such locations as it deems necessary to give adequate notice of the speed limits established pursuant to division (A) or (B) upon such highways.

(Neb. RS 60-6,186) Penalty, see § 71.99

§ 71.22 BRIDGES AND OTHER ELEVATED STRUCTURES.

(A) No person shall drive a vehicle over any public bridge, causeway, viaduct, or other elevated structure at a speed which is greater than the maximum speed which can be maintained with safety thereon when such structure is posted with signs as provided in division (B).

(B) The Department of Transportation or the Board of Trustees may conduct an investigation of any bridge or other elevated structure constituting a part of a highway under its jurisdiction, and if it finds that the structure cannot safely withstand vehicles traveling at the speed otherwise permissible, the Department or the Board shall determine and declare the maximum speed of vehicles which the structure can safely withstand and shall cause suitable signs stating the maximum speed to be erected and maintained before each end of the structure.

(C) Upon the trial of any person charged with a violation of division (A), proof of the determination of the maximum speed by the Department or the Board and the existence of such signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety on the bridge or structure.

(Neb. RS 60-6,189) Penalty, see § 71.99

§ 71.23 ALTERNATIVE MAXIMUM LIMITS.

(A) Whenever the Department of Transportation determines, upon the basis of an engineering and traffic investigation, that any maximum speed limit is greater or less than is reasonable or safe under the conditions found to exist at any intersection, place, or part of the state highway system outside of the corporate limits of cities and villages as well as inside the corporate limits of cities and villages on freeways which are part of the state highway system, it may determine and set a reasonable and safe maximum speed limit for such intersection, place, or part of such highway which shall be the lawful speed limit when appropriate signs giving notice thereof are erected at such intersection, place, or part of the highway, except that the maximum rural and freeway limits shall not be exceeded. Such a maximum speed limit may be set to be effective at all times or at such times as are indicated upon such signs.

(B) On all highways within its corporate limits, except on state-maintained freeways which are part of the state highway system, the Board of Trustees shall have the same power and duty to alter the maximum speed limits as the Department if the change is based on engineering and traffic investigation, except that no imposition of speed limits on highways which are part of the state highway system in the village shall be effective without the approval of the Department.

(C) Not more than six such speed limits shall be set per mile along a highway, except in the case of reduced limits at intersections, and the difference between adjacent limits shall not be more than 20 miles per hour.

(D) When the Department or the Board determines by an investigation that certain vehicles in addition to those specified in Neb. RS 60-6,187, 60-6,305, and 60-6,313 cannot with safety travel at the speeds provided in §§ 71.21 and 71.22 and Neb. RS 60-6,187, 60-6,305, and 60-6,313 or set pursuant to this section, § 71.22, or Neb. RS 60-6,188, the Department or the Board may restrict the speed limit for such vehicles on highways under its respective jurisdiction and post proper and adequate signs.

(Neb. RS 60-6,190)

§ 71.24 NEAR SCHOOLS.

(A) 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 the vehicle at a rate of speed in excess of 15 miles per hour past the premises.

Penalty, see § 71.99

(B) The driver shall stop at all stop signs located at or near such school premises, and it shall be unlawful for the driver to make a U-turn at any intersection where such stop signs are located at or near such school premises.

Penalty, see § 70.99

§ 71.99 VIOLATIONS; FINES.

(A) Any person who operates a vehicle in violation of any maximum speed limit established for any highway or freeway is guilty of a traffic infraction and upon conviction shall be fined:

- (1) \$10 for traveling 1-5 miles per hour over the authorized speed limit;

- (2) \$25 for traveling over 5 miles per hour but not over 10 miles per hour over the authorized speed limit;
- (3) \$75 for traveling over 10 miles per hour but not over 15 miles per hour over the authorized speed limit;
- (4) \$125 for traveling over 15 miles per hour but not over 20 miles per hour over the authorized speed limit;
- (5) \$200 for traveling over 20 miles per hour but not over 35 miles per hour over the authorized speed limit; and
- (6) \$300 for traveling over 35 miles per hour over the authorized speed limit.

(B) (1) The fines prescribed in division (A) shall be doubled if the violation occurs within a maintenance, repair, or construction zone established pursuant to Neb. RS 60-6,188.

(2) For the purpose of this division (B), the following definition shall apply unless the context clearly indicates or requires a different meaning.

MAINTENANCE, REPAIR, OR CONSTRUCTION ZONE.

(a) (i) The portion of a highway identified by posted or moving signs as being under maintenance, repair, or construction; or

(ii) The portion of a highway identified by maintenance, repair, or construction zone speed limit signs displayed pursuant to Neb. RS 60-6,188; and

(iii) Within such portion of a highway where road construction workers are present.

(b) The maintenance, repair, or construction zone starts at the location of the first sign identifying the maintenance, repair, or construction zone and continues until a posted or moving sign indicates that the maintenance, repair, or construction zone has ended.

(C) The fines prescribed in division (A) shall be doubled if the violation occurs within a school crossing zone.

(Neb. RS 60-682.01)

CHAPTER 72: PARKING REGULATIONS

Section

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GENERAL PROVISIONS

§ 72.01 REGULATION OR PROHIBITION AUTHORIZED.

(A) The Board of Trustees with respect to highways under its jurisdiction and within the reasonable exercise of the police power may regulate or prohibit stopping, standing, or parking.

(Neb. RS 60-680)

(B) If the Board regulates or prohibits stopping, standing, or parking all vehicles or a particular kind or class of vehicles on a highway or a portion of a highway, no person shall stop, stand, or park a vehicle subject to such regulation or prohibition on the highway or portion thereof longer than a period of time necessary to load and unload freight or passengers.

Penalty, see § 70.99

§ 72.02 ROADWAY OUTSIDE BUSINESS OR RESIDENTIAL DISTRICT.

(A) No person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon a roadway outside of a business or residential district when it is practicable to stop, park, or leave such vehicle off such part of a highway, but in any event an unobstructed width of the roadway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicle shall be available from a distance of 200 feet in each direction upon such highway. Such parking, stopping, or standing shall in no event exceed 24 hours.

(B) No person shall stop, park, or leave standing any vehicle on a freeway except in areas designated or unless so directed by a peace officer, except that when a vehicle is disabled or inoperable or the driver of the vehicle is ill or incapacitated, such vehicle shall be permitted to park, stop, or stand on the shoulder facing in the direction of travel with all wheels and projecting parts of such vehicle completely clear of the traveled lanes, but in no event shall such parking, standing, or stopping upon the shoulder of a freeway exceed 12 hours.

(C) No person, except law enforcement, fire department, emergency management, public or private ambulance, or authorized Department of Transportation or local authority personnel, shall loiter or stand or park any vehicle upon any bridge, highway, or structure which is located above or below or crosses over or under the roadway of any highway or approach or exit road thereto.

(D) Whenever a vehicle is disabled or inoperable in a roadway or for any reason obstructs the regular flow of traffic for reasons other than an accident, the driver shall move or cause the vehicle to be moved as soon as practical so as to not obstruct the regular flow of traffic.

(E) This section does not apply to the driver of any vehicle which is disabled while on the roadway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position until such time as it can be removed pursuant to division (D) of this section.

(Neb. RS 60-6,164) Penalty, see § 70.99

§ 72.03 GENERAL PROHIBITIONS; EXCEPTIONS.

(A) Except when necessary to avoid conflict with other traffic or when in compliance with law or the directions of a peace officer or traffic control device, no person shall:

(1) Stop, stand, or park any vehicle:

(a) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(b) On a sidewalk;

(c) Within an intersection;

(d) On a crosswalk;

(e) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone unless the Board of Trustees indicates a different length by signs or markings;

(f) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(g) Upon any bridge or other elevated structure over a highway or within a highway tunnel;

(h) On any railroad track; or

(i) At any place where official signs prohibit stopping.

(2) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(a) In front of a public or private driveway;

(b) Within 15 feet of a fire hydrant;

(c) Within 20 feet of a crosswalk at an intersection;

(d) Within 30 feet of any flashing signal, stop sign, yield sign, or other traffic control device located at the side of a roadway;

(e) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of such entrance when properly signposted;

(f) At any place where official signs prohibit standing; or

(3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:

(a) Within 50 feet of the nearest rail of a railroad crossing; or

(b) At any place where official signs prohibit parking.

(B) No person shall move a vehicle not lawfully under his or her control into any such prohibited area or away from a curb such a distance as shall be unlawful.

(Neb. RS 60-6,166) Penalty, see § 70.99

§ 72.04 OBSTRUCTING STREET, INTERSECTION, OR ENTRANCE.

No person shall, except in case of an accident or emergency, stop any vehicle in any location where stopping will obstruct any street, intersection, or entrance to an alley or public or private drive.

Penalty, see § 70.99

§ 72.05 INTERSECTIONS.

Except when necessary to avoid conflict with other traffic or when in compliance with law or the directions of a peace officer or traffic control device, no person shall park a vehicle or leave a vehicle standing for any purpose, except momentarily to load or discharge passengers, within 25 feet of the intersection of curb lines, or if none, then within 15 feet of the intersection of property lines, or where the curb lines are painted red or another color specified by the Board of Trustees to indicate such prohibition.

Penalty, see § 70.99

§ 72.06 ALLEYS.

(A) No person shall park a vehicle with any portion thereof projecting into any alley entrance.

(B) No person shall park a vehicle 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 ½ hour. Every vehicle while loading or unloading in an alley shall be parked in such manner as will cause the least obstruction possible to traffic in the alley.

Penalty, see § 70.99

§ 72.07 TRUCK PARKING, LOADING, AND UNLOADING.

(A) It shall be unlawful for the operator of any truck with an overall length of more than 20 feet to park or stop such vehicle on a street within the business district except to load or unload when loading or unloading in an alley is impossible and then only for the period of time reasonably necessary to load or unload.

(B) If the Board of Trustees provides truck parking areas adjoining or adjacent to the business district, all truck operators shall use such parking areas for all parking purposes.

(C) Except in an area provided for by the Board by resolution, it shall be unlawful for the operator of any truck, including an oil tanker, to park or stop for any period of time within the limits of any street outside the business district except for the purpose of loading or unloading the cargo thereof in the ordinary course of business.

Penalty, see § 70.99

§ 72.08 DISPLAY OR REPAIR OF VEHICLE.

It shall be unlawful for any person to park upon any highway or public place within the village any vehicle displayed for sale. Except when necessary due to a breakdown or other emergency, no person shall adjust or repair, or race the motor of, any motor vehicle or motorcycle while standing on the highways of the village. No person or employee connected with a garage or repair shop shall use sidewalks or highways in the vicinity of the garage or shop for the purpose of working on vehicles of any description.

Penalty, see § 70.99

§ 72.09 CURRENT REGISTRATION.

It shall be unlawful to park or place on the highways or other public property any vehicle required to be registered by the Motor Vehicle Registration Act that is not registered in accordance with the Act.

Penalty, see § 70.99

Statutory reference:

§ 72.10 TIME LIMITS.

(A) It shall be unlawful to park a vehicle on a public street for over 24 consecutive hours except where a different maximum time limit is posted.

(B) If the Board of Trustees adopts a resolution entirely prohibiting, or fixing a time limit for, the parking and stopping of vehicles on any highway, it is unlawful to park or stop any vehicle in such highway for a period of time longer than fixed in the resolution.

Penalty, see § 70.99

§ 72.11 SNOW; WEATHER EMERGENCIES; HIGHWAY MAINTENANCE.

(A) Unless the Board of Trustees provides otherwise, it is unlawful to park or stand any vehicle on any highway in the village at any time within 12 hours after a snowfall of three inches or more has occurred within a 24 hour period if the snow has not been removed within that time.

(B) The Chairperson of the Board of Trustees, the village police, or any other designated person may order any highway or portion thereof vacated for weather emergencies or highway maintenance. Notice shall be given by personally notifying the owner or operator of a vehicle parked on such highway or by posting appropriate signs along the highway not less than four hours prior to the time that the vacation order is to be effective. It is unlawful to park a vehicle on a highway or portion thereof vacated in accordance with this division (B).

(C) A vehicle parked in violation of this section may be removed and parked, under the supervision of the village police, to a suitable nearby location without further notice to the owner or operator of such vehicle.

Penalty, see § 70.99

§ 72.12 PARALLEL, ANGLE, AND CENTER PARKING.

(A) Except as otherwise provided in this section, any vehicle stopped or parked upon a two-way roadway where parking is permitted shall be so stopped or parked with the right-hand wheels parallel to and within 12 inches of the right-hand curb or edge of such roadway. No vehicle shall be parked upon a roadway when there is a shoulder adjacent to the roadway which is available for parking.

(B) Except when otherwise provided by the Board of Trustees, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of such roadway, in the direction of authorized traffic movement, with its right-hand wheels within 12 inches of the right-hand curb or edge of the roadway or its left-hand wheels within 12 inches of the left-hand curb or edge of such roadway.

(C) The Board of Trustees may permit angle or center parking on any roadway, except that angle or center parking shall not be permitted on any federal-aid highway or on any part of the state highway system unless the Director-State Engineer has determined that such roadway is of sufficient width to permit angle or center parking without interfering with the free movement of traffic.

(D) The Board of Trustees may prohibit or restrict stopping, standing, or parking on highways under its jurisdiction and erect and maintain proper and adequate signs thereon. No person shall stop, stand, or park any vehicle in violation of the restrictions stated on such signs.

(Neb. RS 60-6,167)

(E) Where stalls are designated either on the curb or pavement, vehicles shall be parked within those stalls.

(F) Vehicles must not be parked at any curb in such a position as to prevent another vehicle already parked at the curb from moving away.

Penalty, see § 70.99

§ 72.13 BACKING FREIGHT VEHICLE TO CURB.

The operator of a vehicle of an over-all length of less than 20 feet, including load, while loading or unloading freight may back the vehicle to the curb but shall occupy as little of the street as possible.

Penalty, see § 70.99

§ 72.14 UNATTENDED MOTOR VEHICLE.

No person having control or charge of a motor vehicle shall allow such vehicle to stand unattended on a highway without first stopping the motor of such vehicle, locking the ignition, removing the key from the ignition, and effectively setting the brakes thereon and, when standing upon any roadway, turning the front wheels of such vehicle to the curb or side of such roadway.

(Neb. RS 60-6,168) Penalty, see § 70.99

§ 72.15 PAINTING OF CURBS.

(A) The curb space within 15 feet in either direction of a fire hydrant shall be painted red, or another color specified by the Board of Trustees, to indicate that parking is prohibited in such area.

(B) If the Board adopts a resolution regulating or prohibiting the parking or stopping of vehicles at the curb on highways in front of certain facilities or at certain locations, the curbs adjacent to any such facility or location shall be painted in such manner as directed by the Board to indicate such regulation or prohibition.

(C) It shall be the duty of the Board or its agent to cause the curb space to be painted and to keep the same painted as provided in this chapter or as specified by the Board. The marking or designating of portions of highways where the parking of vehicles is prohibited or limited shall be done only by the village through its proper officers, at the direction of the Board. No person shall paint the curb of any highway or in any manner set aside, or attempt to prevent the parking of vehicles in, any highway or part thereof, except at such places where the parking of vehicles is prohibited by the provisions of this chapter or by a resolution adopted by the Board.

Penalty, see § 70.99

ADMINISTRATION AND ENFORCEMENT

§ 72.50 TICKETS.

All tickets issued for violations of nonmoving traffic regulations contained in this chapter shall, in addition to information normally stated on such tickets, carry the following information:

- (A) The amount of the fine if paid within 30 days;
- (B) The amount of the fine if not paid within 30 days;
- (C) The location where payment may be made; and
- (D) The fact that a complaint will be filed after 30 days if the fine is not paid in that time.

§ 72.51 REMOVAL OF ILLEGALLY STOPPED VEHICLES; LIABILITY FOR COSTS.

(A) Whenever any peace officer, or any authorized employee of a law enforcement agency who is employed by the village and specifically empowered by ordinance to act, finds a vehicle standing upon a highway in violation of any of the provisions of this chapter, the individual may remove the vehicle, have such vehicle removed, or require the driver or other person in charge of the vehicle to move such vehicle to a position off the roadway of the highway or from the highway.

(B) The owner or other person lawfully entitled to the possession of any vehicle towed or stored shall be charged with the reasonable cost of towing and storage fees. Any towing or storage fee shall be a lien upon the vehicle prior to all other claims. Any person towing or storing a vehicle shall be entitled to retain possession of the vehicle until the charges are paid. The lien provided for in this section shall not apply to the contents of any vehicle.

(Neb. RS 60-6,165)

CHAPTER 73: ALL-TERRAIN VEHICLES AND UTILITY-TYPE VEHICLES

Section

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- 73.02 Operation
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§ 73.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALL-TERRAIN VEHICLE. Any motorized off-highway vehicle which:

- (1) Is 50 inches or less in width;
- (2) Has a dry weight of nine hundred 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.

STREET or HIGHWAY. 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.

UTILITY-TYPE VEHICLE.

- (1) Any motorized off-highway vehicle which:
 - (a) Is not less than 48 inches nor more than 74 inches in width;
 - (b) Is not more than 135 inches, including the bumper, in length;
 - (c) Has a dry weight of not less than 900 pounds nor more than 2,000 pounds;
 - (d) Travels on four or more low-pressure tires; and
 - (e) Is equipped with a steering wheel and bench or bucket-type seating designed for at least two people to sit side-by-side.
- (2) **UTILITY-TYPE VEHICLE** does not include golf carts or low-speed vehicles.

(1997 Code, § 5-601) (Ord. 07-04, passed 2-10-2004; Ord. 13-15, passed 5-13-2014)

Statutory reference:

Related provisions, see Neb. RS 60-624, 60-6,355

§ 73.02 OPERATION.

(A) An all-terrain vehicle and a utility-type vehicle 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. All utility-type vehicles shall have a valid certificate of title.

(B) An all-terrain vehicle or a utility-type vehicle may be operated only between the hours of sunrise and sunset and shall not be operated at a speed in excess of 30 mph.

(1) When operating an all-terrain vehicle or an utility-type vehicle as authorized in division (A) above, the headlight and taillight of the vehicle shall be on and the vehicle shall be equipped with a bicycle safety flag which extends not less than five feet above ground attached to the rear of such vehicle.

(2) The bicycle safety flag shall be triangular in shape with an area of not less than 30 square inches and shall be day-glow in color.

(C) Any person operating an all-terrain vehicle or a utility-type vehicle as authorized in division (A) above:

- (1) Shall have a valid Class O operator's license or a farm permit as provided in Neb. RS 60-4,126;
- (2) Shall have liability insurance coverage for the all-terrain vehicle or a utility-type vehicle while operating the all-terrain vehicle or an utility-type vehicle on a street or highway. The person operating the all-terrain vehicle or a utility-type vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five days of such a request; and
- (3) Must be at least 18 years of age.

(D) All-terrain vehicles and utility-type vehicles may be operated without complying with divisions (B) and (C) above on streets and highways in parades which have been authorized by the state or any department, board, commission or political subdivision of the state.

(E) An all-terrain vehicle or a utility-type vehicle 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. Divisions (A), (B) and (E) of this section and § 73.05 authorize and apply to operation of an all-terrain vehicle or a utility-type vehicle only on a street or highway other than a controlled-access highway with more than two marked traffic lanes.

(F) Subject to division (E) above, the crossing of a street or highway shall be permitted by an all-terrain vehicle or a utility-

type vehicle without complying with divisions (B) and (C) above only if:

- (1) The crossing is made at an angle of approximately 90 degrees 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 tail light of the vehicle are on when the crossing is made.

(1997 Code, § 5-602) (Ord. 5-602, passed 11-14-1989; Ord. 18-94, passed 7-12-1994; Ord. 13-14, passed 5-13-2014)
Penalty, see § 70.99

Statutory reference:

Related provisions, see Neb. RS 60-6,356

§ 73.03 PERMIT FEE.

(A) The governing body will set an annual fee for a permit to operate an all-terrain vehicle/utility-type vehicle on the streets within the village, renewing during the month of May.

(B) Said fee shall be prorated according to the month of the issuance of the permit.

(1997 Code, § 5-602-01) (Res. 14-05, passed 5-13-2014)

§ 73.04 HEADLIGHTS.

Every all-terrain vehicle shall display a lighted headlight and taillight during the period of time from one-half hour after sunset to one-half hour before sunrise and at any time when visibility is reduced due to insufficient light or unfavorable atmospheric conditions.

(1997 Code, § 5-603) Penalty, see § 70.99

Statutory reference:

Related provisions, see Neb. RS 60-6,357

§ 73.05 EQUIPMENT, REQUIREMENT.

Every all-terrain vehicle and utility-type vehicle shall be equipped with:

- (A) A brake system maintained in good operating condition;
- (B) An adequate muffler system in good working condition; and
- (C) A United States Forest Service qualified spark arrester.

(1997 Code, § 5-604) (Ord. 13-14, passed 5-13-2014) Penalty, see §70.99

Statutory reference:

Related provisions, see Neb. RS 60-6,358

§ 73.06 PROHIBITIONS.

No person shall:

- (A) Equip the exhaust system of an all-terrain vehicle with a cutout, bypass or similar device;
- (B) Operate an all-terrain vehicle with an exhaust system so modified; or
- (C) Operate an all-terrain vehicle with the spark arrester removed or modified except for use in closed-course competition events.

(1997 Code, § 5-605) Penalty, see § 70.99

Statutory reference:

Related provisions, see Neb. RS 60-6,359

§ 73.07 COMPETITION.

All-terrain vehicles participating in competitive events may be exempted from §§73.04 through 73.06 at the discretion of the Director of Motor Vehicles.

(1997 Code, § 5-606) Penalty, see § 70.99

Statutory reference:

Related provisions, see Neb. RS 60-6,360

§ 73.08 ACCIDENT REPORT.

If an accident results in the death of any person or in the injury of any person which requires the treatment of the person by a physician, the operator of each all-terrain vehicle involved in the accident shall give notice of the accident in the same manner as provided in Neb. RS 60-505.

(1997 Code, § 5-607) Penalty, see § 70.99

Statutory reference:

Related provisions, see Neb. RS 60-6,361

§ 73.09 VIOLATIONS.

Any violations of §§ 73.02 through 73.08, which is also a violation under Neb. RS Chapter 39 or Chapter 60, may be punished under the penalty provisions of such chapter.

(1997 Code, § 5-608) Penalty, see § 70.99

Statutory reference:

Related provisions, see Neb. RS 60-6,362

§ 73.10 ENFORCEMENT.

Any peace officer of the state or of any political subdivision, including conservation officers of the Game and Parks Commission shall be charged with the enforcement of the provisions of §§ 73.02 through 73.08.

(1997 Code, § 5-609)

CHAPTER 74: GOLF CARTS

Section

74.01 Regulations

74.99 Penalty

§ 74.01 REGULATIONS.

(A) *Definitions.* For purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GOLF CART VEHICLE. A vehicle that has at least four wheels, has a maximum level ground speed of less than 20 mph, has a maximum payload capacity of 1,200 pounds, has a maximum gross vehicle weight of 2,500 pounds, has a maximum passenger capacity of not more than four persons, is designed and manufactured for operation on a golf course for sporting and recreational purposes, and is not being operated within the boundaries of a golf course.

STREET or HIGHWAY. 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.

(B) Golf cart vehicles may be operated on the streets and highways within the corporate limits of the village only if and to the extent the operator and the vehicle comply with the provisions of this section.

(C) Golf cart vehicles may be operated on the streets and highways within the corporate limits of the village only between the hours of sunrise and sunset.

(D) Golf cart vehicles may be operated on the streets and highways within the corporate limits of the village only if such vehicle is equipped with a federally approved bicycle safety flag attached to the rear of the vehicle that, when attached to the vehicle, extends not less than five feet above ground.

(E) In order to be authorized for operation on the streets and highways of the village, all golf cart vehicles shall be registered annually in the office of the Village Clerk. A registration number will be issued upon submitting proof of the following:

(1) A certificate from the Village Clerk indicating that the golf cart vehicle has been inspected by an official or officials designated by the Board of Trustees, and that said vehicle fully complies with the equipment requirements identified by this

section;

(2) Proof of liability insurance coverage for the golf cart vehicle while operating such vehicle on a street or highway; and

(3) Payment of annual fee for registration of the vehicle in such amount as set from time to time by the Board of Trustees.

(F) Upon compliance with the annual registration requirements identified herein, the Village Clerk shall issue a permit for the golf cart vehicle being registered. Said permit must be prominently displayed upon the front or driver's side of said vehicle at all times while such vehicle is in operation on the streets and highways of the village.

(G) The registration period for all golf cart vehicles shall be from May 1 to April 30 of the following year. A person may renew their annual registration no sooner than 30 days prior to its expiration.

(H) Any person operating a golf cart vehicle as authorized by this section shall be at least 19 years of age and shall possess a valid motor vehicle operator's license issued by the state or another state. The individual operating the golf cart vehicle shall provide proof of the requisite insurance coverage to any peace officer requesting such proof. No person shall operate a golf cart vehicle after daylight hours on the streets or highways of the village, in violation of the State Rules of the Road as established by the state statutes (as amended from time to time).

(I) Golf cart vehicles may be operated without complying with the provisions of this section when being operated in parades which have been authorized by the state or any department board, commission or political subdivision of the state.

(J) Notwithstanding anything to the contrary in this section, a golf cart vehicle shall not be operated on any state or federal highway (including Nebraska Highway 23) other than for the limited purpose of crossing said highway. The crossing of the highway shall be made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing. The golf cart vehicle shall be brought to a complete stop before crossing the shoulder or roadway of the highway, and the operator shall yield the right-of-way to all oncoming traffic that constitutes an immediate potential hazard.

(1997 Code, § 5-701) (Ord. 01-2016, passed 1-12-2016) Penalty, see §74.99

§ 74.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person who violates any provision of §74.01 shall be subject to a maximum fine of \$100 per violation. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of § 74.01. In addition, upon the occurrence of such violation:

(1) The registration for the golf cart vehicle at issue shall be immediately revoked for a period of one year from the date of the offense;

(2) The person violating § 74.01 shall not be allowed to register a golf cart vehicle with the village for a period of one year from the date of the offense; and

(3) The person violating § 74.01 shall not be allowed to operate a golf cart vehicle within the village for a period of one year from the date of the offense.

(1997 Code, § 5-701) (Ord. 01-2016, passed 1-12-2016)

TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMALS

91. FIRE PREVENTION AND PROTECTION

92. NUISANCES

93. PUBLIC WAYS AND PROPERTY

CHAPTER 90: ANIMALS

Section

Animals Generally

90.01 Controlled within municipality

90.02 Banned from municipality

- 90.03 Wild
- 90.04 Cruelty
- 90.05 Killing and injuring
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- 90.33 Killing and poisoning
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ANIMALS GENERALLY

§ 90.01 CONTROLLED WITHIN MUNICIPALITY.

It shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat or other livestock within 200 feet of any dwelling unit within the corporate limits.

(1997 Code, § 6-201) Penalty, see §90.99

Statutory reference:

Related provisions, see Neb. RS 17-207

§ 90.02 BANNED FROM MUNICIPALITY.

It shall be unlawful for any person to keep or maintain within the corporate limits any swine.

(1997 Code, § 6-202) Penalty, see §90.99

Statutory reference:

Related provisions, see Neb. RS 17-207

§ 90.03 WILD.

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

(1997 Code, § 6-203) Penalty, see §90.99

Statutory reference:

Related provisions, see Neb. RS 17-207

§ 90.04 CRUELTY.

No person shall cruelly or unnecessarily beat, overwork or insufficiently shelter or feed any animal within the municipality.

(1997 Code, § 6-204) Penalty, see §90.99

Statutory reference:

Related provisions, see Neb. RS 28-1001, 28-1002

§ 90.05 KILLING AND INJURING.

No person shall kill or injure any animal by the use of firearms, stones, clubs, poisons or any other manner unless the animal is vicious or dangerous and cannot be captured without danger to the persons attempting to effect a capture of the said animal.

(1997 Code, § 6-205) Penalty, see §90.99

Statutory reference:

Related provisions, see Neb. RS 28-1001, 28-1002

§ 90.06 ENCLOSURES.

All pens, cages, sheds, yards or any other area or enclosure 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.

(1997 Code, § 6-206) Penalty, see §90.99

§ 90.07 FOWL; WRITTEN PERMISSION.

It shall be unlawful for any person to keep on their private property poultry, chickens, turkeys, geese or other fowls unless, and until they have received the written consent of the owners or lessees of the property immediately adjoining the private property where such fowls are to be kept, and all other property owners within 150 feet of the place where such animals are to be kept, which consent shall be filed at the office of the Village Clerk and shall be subject to revocation by any of the said owners or lessees at any time.

(1997 Code, § 6-207) Penalty, see §90.99

§ 90.08 PITTING; DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BEARBAITING. The pitting of any animal against a bear.

COCKFIGHTING. The pitting of a fowl against another fowl.

DOG FIGHTING. The pitting of a dog against another dog.

PITTING. Bringing animals together in combat.

(1997 Code, § 6-208) (Ord. 7-88, passed 9-13-1988; Ord. 4-90, passed 12-11-1990)

Statutory reference:

Related provisions, see Neb. RS 28-1004

§ 90.09 PITTING PROHIBITED.

No person shall knowingly promote, engage in or be employed at dogfighting, cockfighting, bearbaiting or pitting an animal against another, nor shall any person knowingly receive money for the admission of another person to a place kept for such purpose, nor shall any person knowingly own, use, train, sell or possess an animal for the purpose of animal pitting, nor shall any person knowingly permit any act as described in this section to occur on any premises owned or controlled by him or her.

(1997 Code, § 6-209) (Ord. 7-88, passed 9-13-1988; Ord. 4-90, passed 12-11-1990) Penalty, see §90.99

Statutory reference:

Related provisions, see Neb. RS 28-1005

§ 90.10 PITTING; SPECTATORS PROHIBITED.

No person shall knowingly and willingly be present at and witness as a spectator dogfighting, cockfighting, bearbaiting or the pitting of an animal against another as prohibited in § 90.09.

(1997 Code, § 6-210) (Ord. 7-88, passed 9-13-1988; Ord. 4-90, passed 12-11-1990) Penalty, see §90.99

Statutory reference:

Related provisions, see Neb. RS 28-1005

§ 90.11 ABANDONMENT, NEGLECT AND CRUELTY.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDON. To leave any animal in one's care, whether as owner or custodian, for any length of time without making effective provision for its food, water or other care as is reasonably necessary for the animal's health.

ANIMAL. Any vertebrate member of the animal kingdom. **ANIMAL** does not include an uncaptured wild creature or a livestock animal as defined in this section.

BOVINE. A cow, an ox or a bison.

CRUELLY MISTREAT. To knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald or otherwise inflict harm upon any animal.

CRUELLY NEGLECT. To fail to provide any animal in one's care, whether as owner or custodian, with food, water or other care as is reasonably necessary for the animal's health.

HUMANE KILLING. The destruction of an animal by a method which causes the animal a minimum of pain and suffering.

LAW ENFORCEMENT OFFICER. Any member of the Nebraska State Patrol, any county or deputy sheriff, any member of a city or village police force, or any other public official authorized by the village or any other city or village to enforce state or local animal control laws, rules, regulations or ordinances.

LIVESTOCK ANIMAL. Any bovine, equine, swine, sheep, goats, domesticated cervine animals, ratite birds or poultry.
(1997 Code, § 6-211)

(B) *Law enforcement officer; powers; immunity.*

(1) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for or impound the animal.

(2) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed in Neb. RS 29-422 to 29-429.

(3) Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.

(1997 Code, § 6-212)

(C) *Penalty.* A person who intentionally, knowingly or recklessly abandons, cruelly mistreats or cruelly neglects an animal if guilty of an offense.

(1997 Code, § 6-213)

(Ord. 5-90, passed 12-11-1990) Penalty, see §90.99

Statutory reference:

Related provisions, see Neb. RS 28-1008, 28-1009, 28-1012

§ 90.12 EQUINE; BOVINE: PROHIBITED ACTS.

(A) (1) No person shall intentionally trip or cause to fall, or lasso or rope the legs of, any equine by any means for the purpose of entertainment, sport, practice or contest.

(2) The intentional tripping or causing to fall or lassoing or roping the legs of, any equine by any means for the purpose of entertainment, sport, practice or contest shall not be considered a commonly accepted practice occurring in conjunction with sanctioned rodeos, animal racing or pulling contests.

(B) (1) No person shall intentionally trip, cause to fall or drag any bovine by its tail by any means for the purpose of entertainment, sport, practice or contest.

(2) The intentional tripping, causing to fall or dragging of any bovine by its tail by any means for the purpose of entertainment, sport, practice or contest shall not be considered a commonly accepted practice occurring in conjunction with sanctioned rodeos, animal racing or pulling contests.

(1997 Code, § 6-214) Penalty, see §90.99

Statutory reference:

Related provisions, see Neb. RS 54-911, 54-912

§ 90.13 NUMBER ALLOWED.

Except as provided herein, no person or household shall own, keep or harbor more than three cats or dogs or combination of both within the corporate limits of the village.

(1997 Code, § 6-215) (Ord. 02-2016, passed 1-12-2016) Penalty, see §90.99

§ 90.14 RESTRICTIONS.

(A) No feeding or trapping of cats, domestic or feral, either outside or in accessory buildings shall be permitted at any time within the corporate limits of the village, with the exception of:

- (1) By law enforcement personnel or their designees;
- (2) If the feeding or trapping is authorized by the village as part of any approved cat population control plan; or
- (3) If such feeding or trapping is done by the owner of such cat.

(B) Except as provided herein, no person shall engage in the commercial business of breeding, buying, selling, trading, training or boarding cats and/or dogs within the corporate limits of the village.

(C) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CAT. Includes both male and female cats, domestic and/or feral.

DOG. Include both male and female dogs, domestic and/or feral.

OWNER or CUSTODIAN.

(a) Any person who owns, keeps, possesses, harbors or has the care or custody of, a cat or dog, domestic or feral; or

(b) Any person who knowingly permits any such cat or dog to remain on or about any premises owned or occupied by such person.

(1997 Code, § 6-216) (Ord. 02-2016, passed 1-12-2016) Penalty, see §90.99

DOGS; REGULATIONS

§ 90.25 LICENSE.

Any person who shall own, keep or harbor a dog over the age of six months within the municipality shall acquire a license for each such dog from January 1 to February 15 of each year. The said tax shall be delinquent from and after February 15; provided, the possessor of any dog brought into or harbored within the corporate limits or attains the age of six months subsequent to January 1 of any year, shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within 45 days thereafter. Licenses shall be issued by the Village Clerk upon the payment of a license fee of \$3 for each male dog and spayed female dog and \$5 for each unspayed female dog, plus the \$1 fee required under Neb. RS 54-603(3). Said license shall not be transferable and no refund will be allowed in case of death, sale or other disposition of the licensed dog. The owner shall state at the time the application is made and upon printed forms provided for such purpose, his or her name and address and the name, breed, color and sex of each dog owned and kept by him or her.

(1997 Code, § 6-101) Penalty, see §90.99

Statutory reference:

Related provisions, see Neb. RS 17-526, 54-603, 71-4412

§ 90.26 DOG GUIDES, HEARING AID DOGS, SERVICE DOGS; EXEMPT FROM LICENSE TAX.

Every service animal shall be licensed as required by the Municipal Code, but no license tax shall be charged. Upon the retirement or discontinuance of the animal as a service animal, the owner of the animal shall be liable for the payment of the required license tax.

(1997 Code, § 6-101-01) (Ord. 98-23, passed 7-14-1998) Penalty, see §90.99

Statutory reference:

Related provisions, see Neb. RS 54-603

§ 90.27 LICENSE TAGS.

Upon the payment of the license fee, the Village Clerk shall issue to the owner of a dog a license certificate and a metallic tag for each dog so licensed. The metallic tags shall be properly attached to the collar or harness of all dogs so licensed and shall entitle the owner to keep or harbor the said dog until December 31 following such licensing. All license fees and collections shall be immediately credited to the General Fund. It shall be the duty of the Village Clerk to issue tags of a suitable design that are different in appearance each year.

(1997 Code, § 6-102) Penalty, see § 90.99

Statutory reference:

Related provisions, see Neb. RS 17-526, 54-603

§ 90.28 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 municipality. It shall be the duty of the Village Clerk to cause any dog found to be running at large within the municipality to be taken up and impounded. **RUNNING AT LARGE** shall mean any dog found off the premise of the owner, and not under control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint.

(1997 Code, § 6-103) Penalty, see § 90.99

Statutory reference:

Related provisions, see Neb. RS 17-526, 54-607

§ 90.29 OWNER DEFINED.

Any person who shall harbor or permit any dog to be for ten days or more in or about his or her house, store or enclosure, or to remain to be fed, shall be deemed the owner and possessor of such dog and shall be deemed to be liable for all penalties herein prescribed.

(1997 Code, § 6-104)

Statutory reference:

Related provisions, see Neb. RS 54-606, 71-4401

§ 90.30 PROCLAMATION.

It shall be the duty of the governing body 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 passed. The dogs may be harbored by any good and sufficient means in a house, garage or yard on the premise wherein the said owner may reside. Upon issuing the proclamation, it shall be the duty of all persons owning, keeping or harboring any dog to confine the same as herein provided.

(1997 Code, § 6-105) Penalty, see § 90.99

Statutory reference:

Related provisions, see Neb. RS 17-526

§ 90.31 CAPTURE IMPOSSIBLE.

The Village Clerk shall have the authority to kill any animals showing vicious tendencies, or characteristics of rabies which make capture impossible because of the danger involved.

(1997 Code, § 6-106) Penalty, see § 90.99

Statutory reference:

Related provisions, see Neb. RS 17-526

§ 90.32 INTERFERENCE WITH VILLAGE CLERK.

It shall be unlawful for any person to hinder, delay or interfere with the Village Clerk while performing any duty enjoined upon him or her by the provisions of this subchapter.

(1997 Code, § 6-108) Penalty, see § 90.99

Statutory reference:

Related provisions, see Neb. RS 28-906

§ 90.33 KILLING AND POISONING.

It shall be unlawful to kill, or to administer, or cause to be administered, poison of any sort to a dog, or in any manner to injure, maim or destroy, or in any manner attempt to injure, maim or destroy any dog that is the property of another person, or to place any poison, or poisoned food where the same is accessible to a dog; provided, that this section shall not apply to Village Clerk acting within his or her power and duty.

(1997 Code, § 6-109) Penalty, see § 90.99

Statutory reference:

Related provisions, see Neb. RS 28-1002

§ 90.34 BARKING AND OFFENSIVE.

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 municipality. 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 Village Clerk shall investigate the complaint and, if in his opinion the situation warrants, shall notify the owner to silence and restrain such dog.

(1997 Code, § 6-110) Penalty, see § 90.99

Statutory reference:

Related provisions, see Neb. RS 17-526

§ 90.35 FIGHTING.

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.

(1997 Code, § 6-111) Penalty, see § 90.99

Statutory reference:

Related provisions, see Neb. RS 17-526

§ 90.36 DANGEROUS AND VICIOUS DOGS.

(A) *Dangerous dogs.*

(1) **Definition.** **DANGEROUS DOG** means any dog that, because of its aggressive nature, training or characteristic behavior, presents a risk of serious physical harm or death to human beings, or would constitute a danger to human life, physical well-being or property if not kept under the direct control of the owner. This definition shall not apply to dogs utilized by law enforcement officers in the performance of their duties. The term **DANGEROUS DOG** includes any dog that according to the records of either the village or any law enforcement agency:

(a) Has aggressively bitten, attacked, endangered or inflicted severe injury on a human being on public or private property, or when unprovoked, has chased or approached a person upon the street, sidewalks or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by any law enforcement authorities;

(b) Has more than once severely injured or killed a domestic animal while off the owner's property; or

(c) Has been used primarily or in part for the purpose of dog fighting, or is a dog trained for dog fighting.

(2) *Procedure for declaring a dog dangerous.*

(a) The Village Clerk or any adult person may request under oath that a dog be classified as dangerous as defined above by submitting a sworn, written complaint on a form approved by the village. Upon receipt of such complaint, the Village Clerk shall notify the owner of the dog that a complaint has been filed and that an investigation into the allegations as set forth in the complaint will be conducted.

(b) At the conclusion of any investigation, the Village Clerk may:

1. Determine that the dog is not dangerous and, if the dog is impounded, waive any impoundment fees incurred and release the dog to its owner; or

2. Determine that the dog is dangerous and order the owner to comply with the requirements for keeping dangerous dogs set forth herein, and if the dog is impounded, release the dog to its owner after the owner has paid all fees incurred for the impoundment. If all impoundment fees have not been paid within ten business days after a final determination that a dog is dangerous, the Village Clerk may cause the dog to be humanely destroyed.

(3) *Notification of dangerous dog declaration.*

(a) Within five business days after declaring a dog dangerous, the Village Clerk shall notify the owner by certified mail of the dog's designation as a dangerous dog and any specific restrictions and conditions for keeping the dog, as set forth in this section. The Village Clerk shall also notify the Chairperson of the Village Board of the designation of any dog as a dangerous dog. Such notification shall describe the dog and specify any particular requirements or conditions placed upon the dog owner.

(b) The notice shall inform the dog owner that he or she may request, in writing, a hearing to contest the Village Clerk's finding and designation within five business days after delivery of the dangerous dog declaration notice.

(c) If the Village Clerk cannot with due diligence locate the owner of a dog that has been seized pursuant to this section, the Village Clerk shall cause the dog to be impounded for not less than five business days. If after five days, the owner fails to claim the dog, the Village Clerk may cause the dog to be humanely destroyed.

(B) *Vicious dogs.*

(1) The following are hereby declared to be vicious dogs:

- (a) Staffordshire Bull Terrier;
- (b) American Pit Bull Terrier;
- (c) American Staffordshire Terrier;
- (d) Chow;
- (e) Doberman;
- (f) Rottweiler;
- (g) American Bandage Mastiff;
- (h) Neopolitan Mastiff; and

(i) Any dogs that have the appearance and characteristics of being predominately of one or more of the above breeds, and which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds, to be determined by a qualified veterinarian duly licensed as such in the state.

(2) *Prohibition.* No person shall own, possess, keep, exercise control over, maintain, harbor, transport or sell within the village limits of the village any vicious dog. This prohibition shall not be applied to animals being transported through the village limits of the village within a one-hour period of time.

(3) *Procedure for citation.* The Village Clerk or any person having knowledge that someone owns, possesses, keeps, exercises control over, maintains, harbors, transports or sells a vicious dog in the village, shall file with the Village Clerk a sworn affidavit setting forth the basis on which they believe the animal to be a vicious dog, the name and address of where the dog is kept, and a description of the dog. The Village Clerk shall serve notice upon the person who owns, possesses, keeps, exercises control over, maintains, harbors, transports or sells the alleged vicious dog, that such affidavit has been filed. The person who is given the notice shall have ten days from the service of the notice to inform the Village Clerk in writing that he or she does not believe that the alleged vicious dog falls within the provisions of this section. The person who is given the notice shall also have ten days from the service of notice to inform the Village Clerk in writing that he or she believes that the alleged vicious dog does fall within the provisions of this section, in such case, there shall be an irrefutable presumption that said dog is a vicious dog under the provisions of this section, and the Village Clerk shall cite the person in accordance with the provisions of this section. Should said person who is given notice fail to respond within ten days to the Village Clerk, there shall be an irrefutable presumption that said dog is a vicious dog under the provisions of this section and shall cite the person who is given notice, in accordance with the provisions of this section. Should said person give notice in writing to the Village Clerk that he or she does not believe the alleged vicious dog falls within the provisions of this section, then the Village Clerk shall serve upon said person a notice requiring that he or she shall bring said alleged vicious dog to a veterinarian for inspection to determine whether the dog is a vicious dog by definition as set forth in this section. The veterinarian shall have the option of drawing blood from the dog and have DNA testing completed for the purpose of making this determination. In the event that the veterinarian determines that the dog is a vicious dog as set forth by definition in this section, the Village Clerk shall cite the owner of the alleged vicious dog in accordance with the provisions of this section. The cost of the veterinarian and any DNA testing shall be paid by the owner. Should the person fail to bring the dog to the veterinarian for inspection as instructed, there shall be an irrefutable presumption that said dog is a vicious dog, and the Village Clerk shall cite the person in accordance with the provisions of this section.

(4) *Trial and order of the court.* Whenever any person is charged with owning, possessing, keeping, exercising control over, maintaining, harboring, transporting or selling a vicious dog as defined in this section, that person shall, to the satisfaction of the court, remove said dog from the village until the trial on the citation. If the owner fails to remove the dog within 48 hours of the service of the citation, the Village Clerk shall impound the dog until the trial on the citation. If the dog is determined by plea or trial to be a vicious dog provided by this section, the court shall in addition to ordering the payment of fine, order the owner to pay all impoundment fees, veterinarian and DNA testing fees, and order that the dog shall not be returned to or kept in the village. Any person convicted hereunder who returns the vicious dog or keeps the vicious dog in the village after being convicted hereunder, shall be subject to contempt of court or prosecuted as a separate violation of this section. Each day the dog is kept in the village shall be deemed a separate violation.

(C) *Request for determination by Village Clerk.* Any person who may be subject to this section may make a written

request to the Village Clerk to determine whether and how the provisions of this section may apply to him or her and the dogs subject to the provisions of this section. No enforcement of the section may be taken while this written request is being considered by the Village Clerk. If the Village Clerk determines this section is applicable, the individual will be informed of the amount of time he or she has to comply with the section.

(1997 Code, § 6-112) (Ord. 08-01, passed 7-18-2008) Penalty, see §90.99

§ 90.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) 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.

(1997 Code, § 6-401)

(D) Any person upon whom a duty is placed by the provisions of §90.14 and § 90.13 who shall fail, neglect or refuse to perform such duty, or who shall violate any of the provisions of these sections, shall be subject to the penalty and enforcement provisions of the municipal code, including a fine of not more than \$100 per violation. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this section and § 90.13.

(1997 Code, § 6-216) (Ord. 00-12, passed 6-13-2000; Ord. 02-2016, passed 1-12-2016)

Statutory reference:

Related provisions, see Neb. RS 17-207, 17-505, 18-1720, 18-1722

CHAPTER 91: FIRE PREVENTION AND PROTECTION

Section

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FIRES

§ 91.01 OBSTRUCTION.

It shall be unlawful for any person to obstruct the use of a fire hydrant, or have or place any material within 15 feet of the said hydrant. Any vehicle or material found as an obstruction may be immediately removed by the Fire Chief or any member of the Fire Department, or the Village Utilities Superintendent at the risk, cost and expense of the owner or claimant.

(1997 Code, § 7-105) Penalty, see §91.99

Statutory reference:

Related provisions, see Neb. RS 39-672

§ 91.02 TRAFFIC.

(A) Every vehicle already stationary when the fire alarm shall have been sounded must remain so for a period of five minutes after the sounding of the fire alarm.

(B) No vehicle, except by the specific direction of the Fire Chief or Assistant Fire Chief, shall follow, approach or park closer than 500 feet to any fire vehicle, or to any fire hydrant to which a hose is connected.

(C) Nothing herein shall be construed to apply to vehicles carrying doctors, members of the Fire Department, or emergency vehicles.

(1997 Code, § 7-108) Penalty, see §91.99

Statutory reference:

Related provisions, see Neb. RS 39-681

§ 91.03 FALSE ALARM.

It shall be unlawful for any person to intentionally and without good and reasonable cause raise any false alarm of fire.

(1997 Code, § 7-109) Penalty, see §91.99

§ 91.04 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.

(1997 Code, § 7-110) Penalty, see §91.99

Statutory reference:

Related provisions, see Neb. RS 28-908

FIRE PREVENTION

§ 91.25 FIRE PREVENTION CODE.

The rules and regulations promulgated by the office of the State Fire Marshal relating to fire prevention are incorporated by reference into this code and made a part of this subchapter as though spread at large herein together with all subsequent amendments thereto. Three copies of the Fire Prevention Code shall be on file with the Village Clerk and shall be available for public inspection at any reasonable time.

(1997 Code, § 7-201) Penalty, see §91.99

Statutory reference:

Related provisions, see Neb. RS 18-132, 19-902, 19-922, 81-502

§ 91.26 FIRE CODE ENFORCEMENT.

It shall be the duty of all municipal officials to enforce the incorporated fire code provisions and all infractions shall be immediately brought to the attention of the Fire Chief.

(1997 Code, § 7-203)

§ 91.27 FIRE LIMITS DEFINED.

The following described territory in the municipality shall be and constitute the fire limits: Lots One (1) to Twelve (12), both inclusive, Block Four (4); Lots Thirteen (13) to Eighteen (18), both inclusive, Block Eight (8); Lots Six (6) to Twenty (20), both inclusive, Block Five (5); Lots One (1) to Six (6), both inclusive, Block Nine (9), all in the original town, Village of Loomis, Phelps County, Nebraska, as surveyed, platted and recorded.

(1997 Code, § 7-204)

Statutory reference:

Related provisions, see Neb. RS 17-550

§ 91.28 FIRE LIMITS MATERIALS.

Within the aforesaid fire limits, no structure shall be built, altered, moved or enlarged unless such structure will be enclosed with walls constructed wholly of stone, well-burned brick, terra cotta, concrete or other such noncombustible materials as will satisfy the Fire Chief that the said structure will be reasonably fireproof.

(1997 Code, § 7-205)

Statutory reference:

Related provisions, see Neb. RS 17-550

§ 91.29 PERMITTED REPAIRS.

It shall be unlawful for any person to repair, alter or add to any building in the fire limits where the repair is less than 50% of the building unless the said person shall first submit an application to the Village Clerk to make such repairs, alterations or to add to any building and shall state on the application that the material used will be non-combustible and approved by the Fire Chief. Repairs in the form of patching and other minor repairs shall not require a permit. In the event that the repairs, alteration or addition is to involve more than 50% of the building, the owner shall be required to apply for a new building permit which shall state that the building, when completed, shall be fireproof and made of non-combustible materials.

(1997 Code, § 7-206) Penalty, see §91.99

Statutory reference:

Related provisions, see Neb. RS 17-550

§ 91.30 IRONCLADS PROHIBITED.

All buildings, sheds and structures known as ironclads which are constructed of wood and covered with sheet iron or tin attached to the frame shall be considered and deemed to be constructed of combustible materials. Any future construction of an ironclad building shall hereafter be prohibited.

(1997 Code, § 7-207) Penalty, see §91.99

Statutory reference:

Related provisions, see Neb. RS 17-550

§ 91.31 LUMBER YARDS.

It shall be unlawful for any person to locate, establish or maintain any lumber yard or place for the piling, storing, keeping or selling any lumber, or to keep any lime, lath, shingles, hay, straw or other combustible materials on any lot or parcel of ground within said fire limits, unless the same is securely kept in a building constructed of brick, stone, concrete or other noncombustible material; provided, the foregoing shall not apply to lumber yards now built and in use.

(1997 Code, § 7-208) Penalty, see §91.99

Statutory reference:

Related provisions, see Neb. RS 17-549

§ 91.32 FIRE PROHIBITED.

It shall be unlawful for any person to set out a fire on the pavement, or near any curb, now built or hereafter to be built, within the municipality.

(1997 Code, § 7-209) Penalty, see §91.99

Statutory reference:

Related provisions, see Neb. RS 17-556

§ 91.33 OUTDOOR FIREPLACES.

(A) The use of outdoor fireplaces within the corporate limits and the one mile zoning jurisdiction of the village shall be subject to the provisions of this section.

(B) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHIMINEA. An outdoor fireplace, usually made from clay, intended to confine and control outdoor wood fires.

OUTDOOR FIREPLACES. Use wood as a fuel for the purposes of personal enjoyment. **OUTDOOR FIREPLACES** shall include portable fireplaces and chimineas. **OUTDOOR FIREPLACES** do not include barbecue grills that use propane or charcoal as a fuel and are used primarily for outdoor cooking.

PORTABLE FIREPLACE. Being commercially designed and intended to confine and control outdoor fires.

(C) All outdoor fireplaces shall meet all of the following requirements.

(1) *Clearances.* A minimum ten-foot clearance shall be maintained between the outdoor fireplace and combustible walls, roofs, fences, decks and other combustible material.

(2) *Construction.* Outdoor fireplaces shall be constructed of concrete or other approved non-combustible materials. The fire fuel area and openings shall be completely enclosed by steel screening or an approved non-combustible screening material with openings in screening to be not larger than one-half inch square. Vent stacks or chimneys shall have a steel screen cover made of heavy wire mesh or other non-combustible material with openings not larger than one-half inch square or as approved by the Fire Chief. Fire fuel areas shall be covered with a steel screen cover made by heavy wire mesh or other non-combustible material with openings not larger than one-half inch square. Barrel, half-barrels, drums or other similarly constructed devices are expressly prohibited.

(3) *Size.* The fuel area shall not be larger than three feet in diameter and a height of not more than two feet.

(4) *Location.* Outdoor fireplaces shall be placed on a stable non-combustible surface such as a concrete pad. Outdoor fireplaces shall not be located on combustible balconies or on any balcony above the first floor that is attached to a multiple-family dwelling of three or more living units located one above the other. Outdoor fireplaces shall not be located under any combustible balcony or any overhanging part of a structure attached to a multiple-family dwelling of three or more living units.

(5) *Type of materials being burned.* Only untreated wood or commercially-manufactured starter logs shall be burned in any outdoor fireplaces. 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, is expressly prohibited.

(6) *Amount of materials being burnt.* The amount of material being burned at any one time shall be limited to ensure the flames are confined inside the fuel area of the outdoor fireplace and that they do not extend into the chimney or above the chimney. The manufacturer's recommendations as to the maximum amount of fuel to be used at any one time shall be strictly observed.

(7) *Supervision.* Outdoor fireplaces shall be under constant supervision by at least one responsible person of age 18 years or older from the time of ignition of the fire until the fire is completely extinguished and the embers have cooled to the fire will not rekindle.

(8) *Provisions for protection.* A garden hose connected to a water supply or other approved fire extinguishing equipment shall be readily available for use.

(9) *Wind and weather conditions.* Outdoor fireplaces shall not be operated when winds are blowing over ten mph and wind direction is such that smoke, embers or other burning materials may be carried toward any building or other combustible materials. Outdoor fireplaces shall not be operated when weather conditions are extremely dry.

(10) *Maintenance.* The property owner is responsible to ensure proper maintenance and care is accomplished in accordance with the manufacturer's instructions and recommendations. The property owner shall regularly check the outdoor fireplace for the appearance of cracks, other physical deterioration or loose parts.

(11) *Discontinuance.* The property owner shall prevent any smoke from creating a nuisance to neighboring property owners and/or interfering with their peaceful enjoyment of their property. The fire shall be extinguished immediately upon the complaint of a neighboring property owner as to the existence of a smoke nuisance. The Fire Chief is authorized to require outdoor fireplace use to be immediately discontinued if the Fire Chief determines that the continued use constitutes a potential or actual hazardous condition to property or persons.

(1997 Code, § 7-211) (Ord. 03-2016, passed 1-12-2016) Penalty, see §91.99

POISONOUS AND FLAMMABLE GASES AND EXPLOSIVES

§ 91.50 STORAGE REGISTRATION; REQUIREMENTS.

(A) In addition to notifying the Fire Department pursuant to Neb. RS 28-1233(3), any person desiring to store or keep for any period of time explosive materials as defined in Neb. RS 28-1213, shall register such information with the Village Clerk

24 hours prior to such storage. The transfer of explosive materials to another person within the municipality shall require the person receiving the explosive materials to register the transfer and the new location of the explosive materials with the Village Clerk. The transfer of explosive materials to a new location by the owner shall require registration of the new location with the Village Clerk.

(B) All explosive materials shall be stored in a proper receptacle made of cement, metal or stone and be closed at all times, except when in actual use. Such receptacles shall not be located in any room where there are flames or flammable materials. The area surrounding storage facilities shall be kept clear of rubbish, brush, dry grass or trees 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.

(1997 Code, § 7-301) (Ord. 29-94, passed 7-12-1994) Penalty, see §91.99

Statutory reference:

Related provisions, see Neb. RS 17-549, 17-556, 28-1229, 28-1233

§ 91.51 BLASTING PERMITS.

In addition to notifying the Municipal Fire Department pursuant to Neb. RS 28-1233(3), any person desiring to discharge explosive materials, as defined in Neb. RS 28-1213, within the municipality, shall apply for and secure a permit from the governing body 24 hours prior to such discharge, and shall discharge such explosive materials in conformance with the conditions specified in the permit. 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.

(1997 Code, § 7-302) (Ord. 8-89, passed 11-14-1989; Ord. 30-94, passed 7-12-1994)

Statutory reference:

Related provisions, see Neb. RS 17-549, 17-556, 28-1229, 28-1233

§ 91.52 STORAGE REGISTRATION.

In addition to notifying the Fire Department pursuant to Neb. RS 28-1233(3), and person desiring to store or keep for any period of time explosive materials as defined in Neb. RS 28-1213, or any form of poisonous or flammable gases or liquefied petroleum gases within the municipality shall register such information with the Village Clerk 24 hours prior to such storage. The transfer of such explosives or gases to another person within the municipality shall require the person receiving such explosives or gases to register the transfer and the new location of the explosives and gases with the Village Clerk. The transfer of explosive materials and gases to a new location by the owner shall require registration of the new location with the Village Clerk. This section shall not apply to the storage of five gallons or less of gasoline.

(1997 Code, § 7-303) (Ord. 31-94, passed 7-12-1994) Penalty, see §91.99

Statutory reference:

Related provisions, see Neb. RS 17-549, 17-556, 28-1229, 28-1233

FIREWORKS

§ 91.65 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DISTRIBUTOR. Any person engaged in the business of making sales of fireworks at wholesale in this state to any person engaged in the business of making sales or fireworks either as a jobber or as a retailer or both.

FIREWORKS. Any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration or detonation and which meets the definition of common or special fireworks set forth by the United States Department of Transportation in C.F.R. Title 49.

(1) **COMMON FIREWORKS.** Any small firework device designed to produce visible effects by combustion and which is required to comply with the construction, chemical composition and labeling regulations of the United States Consumer Product Safety Commission set forth in C.F.R. Title 16, small devices designed to produce audible effects such as whistling devices, ground devices containing 50 milligrams or less of explosive composition and aerial devices and firecrackers containing 130 milligrams or less of explosive composition. Class C explosives as classified by the United States Department of Transportation shall be considered **COMMON FIREWORKS**.

(2) **DISPLAY FIREWORKS.** Those materials manufactured exclusively for use in public exhibitions or displays of fireworks designed to produce visible or audible effects by combustion, deflagration or detonation. Includes, but is not limited to, firecrackers containing more than 130 milligrams of explosive composition, aerial shells containing more than 40 grams of explosive composition and other display pieces which exceed the limits for classification as common fireworks. Class B explosives as classified by the United States Department of Transportation shall be considered display fireworks. **DISPLAY FIREWORKS** shall be considered an explosive as defined in Neb. RS 28-1213 and shall be subject to Neb. RS 28-1213 to 28-1239, except that display fireworks may be purchased, received and discharged by the holder of an approved

display permit issued pursuant to Neb. RS 28-1239.01.

(3) **PERMITTED FIREWORKS.** Only sparklers, Vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charge for the purpose of making a noise, lady fingers, not to exceed seven-eighths of an inch in length or one-eighth inch in diameter, total explosive composition not to exceed 50 milligrams in weight, color wheels and any other fireworks approved under Neb. RS 28-1247.

JOBBER. Any person engaged in the business of making sales of fireworks at wholesale to any other person engaged in the business of making sales at retail.

RETAILER. Any person engaged in the business of making sales of fireworks at retail to consumers or to persons other than distributors or jobbers.

SALE. Includes barter, exchange or gift or offer therefor and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee.

(1997 Code, § 7-401) (Ord. 8-88, passed 9-13-1988)

Statutory reference:

Related provisions, see Neb. RS 28-1241

§ 91.66 PERMITTED FIREWORKS.

(A) It shall be unlawful for any person to ignite or cause to be exploded fireworks or firecrackers of any description whatsoever, except sparklers, Vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charges for the purpose of making a noise, color wheels, lady fingers, not exceeding seven-eighths inch in length or one-eighth inch in diameter, and which do not contain more than 50 milligrams each in weight of explosive material.

(B) The provisions of this section shall not apply to any fireworks to be used for purpose of public exhibitions or display under authorization of the governing body or to fireworks furnished for agricultural purposes pursuant to written authorization from the State Fire Marshal.

(1997 Code, § 7-402) (Ord. 9-88, passed 9-13-1988) Penalty, see §91.99

Statutory reference:

Related provisions, see Neb. RS 17-5456, 28-1241, 28-1244, 28-1245

§ 91.67 SALE.

(A) It shall be unlawful for any person to sell, hold for sale or offer for sale as distributor, jobber or retailer any fireworks in this state unless such person has first obtained a license as a distributor, jobber or retailer. Application for each such license shall be made to the State Fire Marshal on forms prescribed by him or her. If the applicant is an individual, each application shall include the applicant's Social Security number. Each application shall be accompanied by the required fee, which shall be \$500 for a distributor's license, \$200 for a jobber's license, and \$25 for a retailer's license. Each application for a license as a retailer postmarked after June 10 shall be accompanied by an additional fee of \$50. All licenses shall be good only for the calendar year in which issued and shall at all times be displayed at the place of business of the holder thereof.

(B) Before any permissible fireworks may be sold, held for sale or offered for sale in this state, they shall first be submitted to the State Fire Marshal for examination to determine their compliance with Neb. RS 28-1741(7) and their safety for general use. Fireworks not specifically listed in Neb. RS 28-1741(7) may be added to the list of permissible fireworks by the State Fire Marshal, by rule and regulation, after having been submitted to him or her and tested to determine their safety for general use.

(C) Permissible fireworks may be sold at retail only between June 24 and July 5 of each year.

(1997 Code, § 7-403) (Ord. 05-05, passed 2-7-2005) Penalty, see §91.99

Statutory reference:

Related provisions, see Neb. RS 28-1246, 28-1247, 28-1249

§ 91.68 USE.

(A) Unless otherwise authorized by the governing body of the village, no person shall ignite or cause to be exploded fireworks or firecrackers of any description except between the following hours:

- (1) June 24 through July 3: 8:00 a.m. to 10:00 p.m.;
- (2) July 4: 8:00 a.m. to 1:00 a.m. the following morning;
- (3) July 5: 8:00 a.m. to 10:00 p.m.; and
- (4) December 31 through January 1: 12:00 noon to 12:30 a.m. the following morning.

(B) Provided, further, that no minor shall ignite or cause to be exploded fireworks or firecrackers of any description except with parental supervision.

(1997 Code, § 7-404) (Ord. 14-14, passed 8-12-2014) Penalty, see §91.99

§ 91.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) 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.

(1997 Code, § 7-501)

(C) Any person upon whom a duty is placed by the provisions of § 91.35 who shall fail, neglect or refuse to perform such duty, or who shall violate any of the provisions of § 91.35, shall be subject to the penalty and enforcement provisions of the municipal code, including a fine of not more than \$100 per violation. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of § 91.35.

(1997 Code, § 7-211)

(Ord. 00-12, passed 6-13-2000; Ord. 03-2016, passed 1-12-2016)

Statutory reference:

Related provisions, see Neb. RS 17-207, 17-505, 18-1720, 18-1722

CHAPTER 92: NUISANCES

Section

- 92.01 Purpose
- 92.02 Definition
- 92.03 Abatement services and notice procedure for nuisances
- 92.04 Enforcement
- 92.05 Expenses

- 92.99 Penalty

§ 92.01 PURPOSE.

The village, by this section, defines its authority to define, regulate, suppress and prevent nuisances, and to declare what shall be a nuisance for its jurisdiction and to provide services to abate same for the health and sanitation of the village.

(Ord. 3-18, passed 6-13-2018)

Statutory reference:

Related provisions, see Neb. RS 18-1720

§ 92.02 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

NUISANCE.

(1) A nuisance consists in doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing:

- (a) Injures or endangers the comfort, repose, health or safety of others;
- (b) Offends decency;

(c) Is offensive to the senses;

(d) Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street or highway in the municipality;

(e) In any way renders other persons insecure in life or the use of property;

(f) Essentially interferes with the comfortable enjoyment of life and property; or

(g) Tends to depreciate the value of the property of others.

(2) **NUISANCE** includes, but is not limited to, the maintaining, using, placing, depositing, leaving or permitting of any of the following specific acts, omissions, places, conditions and things of:

(a) Any odorous, putrid, unsound or unwholesome grain, meat, hides, skins, feathers, vegetable matter or the whole or any part of any dead animal, fish or fowl;

(b) The emission of smoke, dust, fumes, gases, mists, odors or polluted air from any source that is injurious or dangerous to human health and safety;

(c) Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats or other insects and rodents, or which are foul or malodorous;

(d) Filthy, littered or trash-covered cellars, house yards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in the rear of stores, granaries, vacant lots, houses, buildings or premises;

(e) Dead animals or dead animals buried within the corporate limits;

(f) Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the municipality;

(g) Hauling any garbage, waste or refuse matter through the streets, alleys and public ways except when the same is loaded and conveyed in such a way when none of the contents shall be spilled;

(h) Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity. Nothing herein contained shall prevent the temporary retention of waste in receptacles nor the dumping of non-putrefying waste in a place and manner approved by the approved by the municipality;

(i) Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles;

(j) Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of the articles or materials create a condition in which flies or rats or other insects or rodents may breed or multiply, or which may be a fire danger, or which are so unsightly as to depreciate property values in the vicinity;

(k) Any unsafe building, unsightly building, billboard or other structure, or any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished, which buildings, billboards or other structures are a fire hazard, or a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity;

(l) All places used or maintained as junk yards, or dumping grounds, or for the wrecking and disassembling of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof;

(m) Stockyards, granaries, mills, pig pens, cattie pens, chicken pens or any other place, building or enclosure, in which animals or fowls of any kind are confined or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when the places in which the animals are confined, or the premises on which the vegetable or animal matter is located, are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom to the annoyance of inhabitants of the municipality, or are maintained and kept in such a manner as to be injurious to the public health;

(n) Dead or diseased trees within the right-of-way of streets within the corporate limits of the village, or on private property within the one mile zoning jurisdiction beyond the corporate limits (Neb. RS 17-555);

(o) Undrained lots which hold or may hold stagnant water or any other nuisance;

(p) Any condition which allows the perpetuating of insects and rodents;

(q) Storage, accumulation, keeping, placing or allowing to remain trash, garbage, scrap and wrecked, worn-out, broken or inoperative, or partially destroyed or disassembled personal or real property of any kind, including any junk or

abandoned motor vehicles, tractors, trailers, machinery and equipment;

(r) Any vehicle which is not properly registered, or is inoperable, wrecked, junked or partially dismantled and remaining longer than 30 days on private property. This does not apply to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the lawful operation of such business enterprise (such as a licensed salvage dealer, motor vehicle dealer or farm implement dealer), or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner, and so long as the premises which said vehicle is located is not a nuisance and is maintained in a healthful and safe condition. **VEHICLE** means the same as defined by Neb. RS 60-136: a "motor vehicle, all-terrain vehicle, minibike, trailer or semitrailer." **PROPERLY REGISTERED** means as required by state statutes:

(s) Lots, pieces of ground, and the adjoining streets and alleys with growth of weeds or noxious growth; and

(t) All other things specifically designated as nuisances elsewhere in the village code.

(Ord. 3-18, passed 6-13-2018)

Statutory reference:

Related provisions, see Neb. RS 18-1720

§ 92.03 ABATEMENT SERVICES AND NOTICE PROCEDURE FOR NUISANCES.

(A) *Nuisance officer.* The village shall appoint an individual or organization to identify and enforce abatement of nuisances within the village. Said individual or organization shall be identified as the "Nuisance Officer" and said appointment shall be identified by resolution of the village.

(B) *Identifying nuisances.*

(1) The village may identify suspected nuisances, in which case the Village Clerk shall, upon direction of the Village Council, notify Nuisance Officer of the suspected location, person or persons in violation of any provision of this chapter and provide the address of such alleged nuisance.

(2) The village may request that the Nuisance Officer audit the village for nuisances in the village as defined by the village code. The Nuisance Officer shall then view the property or area for any violations of the nuisances of the village. The Nuisance Officer shall not go upon private property for said audit unless granted permission by the resident/owner of suspected property.

(C) *Confirming, documenting and presenting nuisances.* The Nuisance Officer shall identify and confirm that in his or her opinion a nuisance exists as defined by federal, state or village law.

(1) Upon confirming that a nuisance appears to exist, the Nuisance Officer shall document said nuisance with photographs and other evidence pertinent to the situation. The Nuisance Officer will also obtain the legal description of the property and identify the current owners and, if possible, the occupants of the property upon which the nuisance exists.

(2) The Nuisance Officer shall then present this information to the village governing board at a regular or special meeting for its confirmation that a nuisance exists as stated in § 92.04.

(Ord. 3-18, passed 6-13-2018)

§ 92.04 ENFORCEMENT.

(A) *Generally.* The nuisance, health and/or sanitation violation is brought to the governing body by the Village Nuisance Officer, or the board of health or upon the governing body's own action. The governing body then may declare by resolution a nuisance, health and/or sanitation violation.

(1) The nuisance, health and/or sanitation ordinances may be enforced by:

- (a) Village administrative procedures;
- (b) Penal prosecutions through the courts; and/or
- (c) By civil procedures in the courts.

(2) Any of these procedures, or any combination of these procedures, may be used to enforce the nuisance, health and/or sanitation ordinances of the village.

(B) *Administrative procedure.* The village may proceed with abatement of the nuisance, sanitation and/or health violation with or without court involvement after the following procedure is followed.

(1) After a nuisance is declared, the Village Clerk notifies the Nuisance Officer to serve notice upon the violator(s).

(2) The Nuisance Officer shall prepare and serve notice which shall describe the found nuisance and state the required date of abatement and removal of the nuisance shall be accomplished. The notice shall also provide information as to how the interested parties may request a hearing before the governing body described in division (B)(4) below.

(3) The notice shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal

service or certified mail. If notice by personal service or certified mail is unsuccessful, said notice shall be given by a single publication in a newspaper of general circulation in the village or county of the village, and by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed. The date of service is determined by the later of certified mail receipt, personal service or publication date.

(4) The accused violator (owner/agent/occupant) may request in writing a hearing before the governing body of the village within five days after notice of violation is served or published. For tree nuisance violations, the period for requesting a hearing is extended to 30 days after service.

(5) If no request for a hearing is received in the required time period, the governing body may cause a hearing to be held. This option is at the sole discretion of the governing body to be used in exceptional cases.

(6) If a hearing is requested, the Village Clerk shall fix a date of said hearing to be no later than 15 days from receipt of the request for the hearing. Notice of said hearing and with the date and time shall be served upon the agent, owner and occupant of the nuisance property by certified and regular mail.

(7) The hearing shall be a "show cause" hearing in which the agent, owner, occupant of the nuisance property (objecting property) shall provide evidence why the alleged condition should not be found to be a public nuisance and remedied. This hearing shall be heard before a quorum of the governing body. The presiding official of the governing body may conduct the hearing, or said presiding official may appoint another person as the hearing officer, to conduct the hearing (said hearing officer may be the Village Attorney or the enforcement officer). At the hearing, the hearing officer shall mark and receive evidence which was presented when the finding of a nuisance was made, relevant evidence of the nuisance since that time, and evidence that the notices were properly given. The objecting party shall then provide its evidence. The rules of evidence are not required at said hearing, but all evidence must be relevant to the particular nuisance being heard. Testimony shall be under oath as administered by the hearing officer, or any person so designated by the hearing officer, and the person providing the testimony is subject to the laws of perjury. Evidence may be submitted in writing by affidavit.

(8) No later than 14 days after the hearing and consideration of the evidence, the governing board may by majority vote rescind the resolution of violation. If the resolution of violation is not rescinded, it shall stand. Furthermore, if the objector or its designated agent fails to appear at the hearing or does not provide evidence, the nuisance shall stand. If the resolution is not rescinded, the governing board may, by resolution, extend the date that owner, occupant, lessee or mortgagee shall abate and remedy the said public nuisance, but in no case shall this time exceed 60 days. The findings of the governing board shall be made no later than 14 days after the hearing and notice of its finding shall be served upon the objecting party by regular U.S. mail within five days of the finding. The finding of this hearing is final, provided that an interested party or parties may appeal such decision to the appropriate court for adjudication.

(9) If the Nuisance Officer determines the nuisance is not remedied and abated within the time period designated, the village shall cause the abatement of the nuisance.

(10) If an interested party properly appeals to an appropriate court the findings and orders of the village, the village actions shall be stayed during until such time that the legal proceedings are completed or dismissed. In cases of appeal from an action of the village condemning real property as a nuisance or as dangerous under the police powers of the municipality, the owners of the adjoining property may intervene in the action at any time before trial.

(Ord. 3-18, passed 6-13-2018)

Statutory reference:

Related provisions, see Neb. RS 19-710

§ 92.05 EXPENSES.

(A) When the village has effected the abatement of the nuisance, health and/or sanitation violation through either village employees or through contract with a third party and has incurred expenses and costs thereof, the actual cost thereof shall be charged to the owner, agent, occupant or person in possession, charge or control of such property. The billing shall be calculated at the actual cost of abating the nuisance plus a \$25 administrative fee.

(B) This billing shall be submitted to the last known address of the owner of the nuisance property as found in the County Treasurer's office, by regular U.S. mail.

(C) If said costs are not paid within two months after the work is done and one month after the expenses and costs are submitted to the owner and/or occupant, the village may levy and assess the expenses and costs upon the real estate benefitted by the actions in the same manner as other special assessments are levied and assessed, and the village may collect said assessments in the same procedure as other special assessments are collected. The village may also recover said expenses and costs of abating the nuisance, health and/or sanitation violation(s) in a civil action in the courts of the appropriate county in the state.

(Ord. 3-18, passed 6-13-2018)

§ 92.99 PENALTY.

(A) *Penal court enforcement procedure.* If the declared nuisance, health and/or sanitation violations are not abated within 15 days that the notice is served upon the owner and/or occupant, and the Village Clerk has not received a request for hearing, the Nuisance Officer may cause issue of a citation for the code violation.

- (1) The citation shall be prosecuted to the appropriate court by the Village Attorney or other designated prosecutor for the village.
- (2) A person or persons found guilty of these violations shall be guilty of a misdemeanor and fined up to \$500 per each offense.
- (3) Each day that the nuisance as identified in the nuisance resolution and notice, is not abated shall be a separate offense and subject to a separate fine.
- (B) *Civil court procedure.* The governing board may instruct by resolution the Village Attorney to file a civil action for the abatement of a nuisance. Said civil suit may commence after 15 days' notice has been served as stated in § 92.03, and may be filed and prosecuted at the same time any other enforcement procedure has commenced, terminated or in progress.
- (Ord. 3-18, passed 6-13-2018)

CHAPTER 93: PUBLIC WAYS AND PROPERTY

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VILLAGE PROPERTY

§ 93.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

OVERSEER OF STREETS. The village official with general charge, direction, and control of streets and sidewalks. If one official is responsible for streets and another official is responsible for sidewalks, **OVERSEER OF STREETS** shall mean whichever one is appropriate in the context the term is used.

SIDEWALK SPACE. The portion of a street between curb lines and adjacent property lines.

§ 93.02 STREETS, ALLEYS, WALKS, MALLS, AND OTHER IMPROVEMENTS.

The Board of Trustees may grade, partially or to an established grade, change grade, curb, recurb, gutter, regutter, pave, gravel, regravell, macadamize, remacadamize, widen, or narrow streets or roadways, resurface or re-lay 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 benefitted in proportion to such benefits, except as provided in Neb. RS 19-2428 through 19-2431. The Board of Trustees may by ordinance create 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 types of the improvements authorized under this section in a single district in one proceeding. All of the improvements which are to be funded by a levy of special assessment on the property especially benefitted shall be ordered as provided in Neb. RS 17-510 to 17-512, except as otherwise provided in Neb. RS 17-509.

(Neb. RS 17-509)

Statutory reference:

Other provisions on improvements, assessments, and bonds, see Neb. RS 17-513 to 17-524, 18-1751, 19-2401, and 19-2408 to 19-2415

§ 93.03 MAINTENANCE AND CONTROL.

The Board of Trustees shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the village and shall cause such highways, bridges, streets, alleys, public squares, and commons to be kept open and in repair and free from nuisances.

(Neb. RS 17-567)

§ 93.04 REGULATION OF OBSTRUCTIONS.

(A) The village may remove all obstructions from the sidewalks, curbstones, gutters, and crosswalks at the expense of the person placing them there or at the expense of the village and require and regulate the planting and protection of shade trees in and along the streets and the trimming and removing of such trees.

(B) The village may regulate the building of bulkheads, cellar and basement ways, stairways, railways, windows,

doorways, awnings, lampposts, awning posts, all other structures projecting upon or over and adjoining, and all other excavations through and under the sidewalks in the village.

(Neb. RS 17-555)

§ 93.05 REGULATION OF SNOW, ICE, AND OTHER ENCROACHMENTS.

(A) The village shall have power to prevent and remove all encroachments, including snow, ice, mud or other obstructions, into and upon all sidewalks, streets, avenues, alleys, and other village property.

(Neb. RS 17-557)

(B) If the abutting property owner refuses or neglects, after five days' notice by publication or, in place thereof, personal service of such notice, to remove all encroachments from sidewalks, as provided in division (A), the village through the proper officers may cause such encroachments to be removed, and the cost of removal shall be paid out of the street fund. The Board of Trustees shall assess the cost of the notice and removal of the encroachment against the abutting property as a special assessment. The special assessment shall be known as a special sidewalk assessment and, together with the cost of notice, shall be levied and collected as a special assessment in addition to the general revenue taxes and shall be subject to the same penalties as other special assessments and shall draw interest from the date of the assessment. Upon payment of the assessment, the assessment shall be credited to the street fund.

(Neb. RS 17-557.01)

§ 93.06 PERMITTED USE OF PUBLIC STREET SPACE.

Any person 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 the building material and equipment as long as is necessary if such person makes application to and receives a permit to do so in writing from the Overseer of Streets. No permit shall authorize the occupancy of more than 1/3 of the roadway of the public space adjacent to the real estate on which the building or sidewalk is to be erected, constructed, reconstructed, wrecked, or repaired. A suitable passageway for pedestrians shall be maintained within the public space included in the permit, which passageway shall be protected and lighted in the manner required by the Overseer of Streets.

Penalty, see § 10.99

§ 93.07 POLES, WIRES, AND PIPE LINES.

(A) Poles, wires, conduits, 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 of the village. Application for location of such appurtenances shall be made to the Board of Trustees in writing. Approval by the Board shall be issued in writing. Any public service company granted a right-of-way for the erection and maintenance of poles, wires, conduits, gas mains, pipe lines, or other appurtenances shall at all times erect and locate their appurtenances at such places and in such manner as shall be designated by the Board.

(B) All poles, wires, conduits, gas mains, pipe lines, and other appurtenances shall be removed or relocated by the companies at their own expense when requested to do so by the Board. Any such removal or relocation shall be ordered by resolution of the Board, and the Village Clerk shall notify any and all companies affected. The companies shall, within 24 hours after receiving notice, at their own expense, cause the poles, wires, conduits, gas mains, pipe lines, or other appurtenances to be removed or relocated. The Board shall designate another location as closely as possible where the appurtenances may be reset or placed.

(C) All poles, wires, conduits, gas mains, pipe lines, or other appurtenances shall be reset, placed, or erected in such a manner that they will not interfere with the water system; the sewerage system; any poles, wires, conduits, mains, lines, or other appurtenances of any public utility; any adjacent buildings; or travel on the public ways and property. Whenever possible, all poles, wires, conduits, gas mains, pipe lines, and appurtenances shall be confined to the alleys of the village.

§ 93.08 DANGEROUS STAIRWAYS AND ENTRANCES.

It shall be unlawful for any person to construct or maintain any stairway, open cellarway, open basement way, or open entrance thereto in or adjacent to any sidewalk, pavement, or street, and any such entrance is hereby declared to be a public nuisance, except that all existing stairways, open cellarways, open basement ways, or open entrances thereto in or adjacent to sidewalks, pavements, or streets may be permitted to remain from and after the adoption of this prohibition if the person owning or using the opening in the sidewalk, pavement, or street satisfies the Overseer of Streets that the opening is properly protected by a balustrade, or coping of durable material, and furnishes the village with a bond in the amount set by the Board of Trustees for the benefit of any person who might suffer an injury or damage by reason of the use of the stairway, cellarway, basement way, or entrance.

§ 93.09 EXCAVATIONS AND EXPOSURES; BARRICADES AND LIGHTS.

Any owner or occupant engaged in construction or demolition of any building or improvement upon or near the public ways and property shall protect all excavations or exposures of any kind by suitable barricades or guards by day and by warning lights at night. The failure, neglect, or refusal of the owner or occupant to erect and maintain such protections shall constitute a violation of this section, and the village may stop all work upon the buildings and improvements until suitable

protections are erected and maintained in the required manner.

§ 93.10 GUTTERING AND EAVE SPOUTS.

It shall be unlawful for any person to erect or maintain any dwelling house or business building within the limits of the village where the dwelling or building abuts on any sidewalk or street without providing proper guttering and eave spouts to receive the waste waters that collect on the 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 the eave spouts into the alley.

§ 93.11 PROHIBITED OBSTRUCTIONS.

(A) It shall be unlawful for any person to obstruct, or encumber, by fences, gates, buildings, structures, or otherwise, any of the streets, alleys, or sidewalks.

(B) The public ways and property shall be considered to be obstructed when the owner or occupant of the adjacent property permits or suffers to remain on any premises owned or controlled by him or her any hedge, shrubbery, bush, or similar growth within two feet adjacent to the lot line, whether there is a sidewalk abutting or adjoining the premises or not. It shall be the duty of owners and occupants to at all times keep trimmed and pruned all such similar growth.

(C) Trees and shrubs growing upon the lot line partially on public ground and partially upon the abutting property, or wholly upon the abutting property, and interfering with the use, making, or construction of any public improvement or so that the roots thereof interfere with any utility wire or pipe shall be deemed an obstruction. Such trees and shrubs and their roots may be removed by the village at the expense of the owner of the property upon which the trees or shrubs are partially or wholly located if the owner fails or neglects, after notice, to do so.

(D) When any obstruction described in this section is determined to exist, the village may proceed against the owner or occupant of the property adjacent to the sidewalk space as provided in the state statutes.

Penalty, see § 10.99

§ 93.12 TREES IN SIDEWALK SPACE.

(A) No person shall plant any tree or allow any tree to grow within the sidewalk space without first making a written or verbal application to and receiving a written permit from the Overseer of Streets upon payment of the fee, if any, established by the Board of Trustees.

(B) Any tree planted within the sidewalk space after the adoption of this prohibition shall be deemed to be unlawfully planted and growing and may be determined to be a nuisance. Nothing in this section shall be construed to apply to any trees growing within the sidewalk space prior to the adoption of this prohibition.

(C) When any such tree is determined to be a nuisance, the village may proceed against the owner or occupant of the property adjacent to the sidewalk space as provided in the state statutes.

Penalty, see § 10.99

§ 93.13 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 there extend the branches of trees shall at all times keep the branches or limbs thereof trimmed to the height of at least 8 feet above the surface of the walk and at least 14 feet above the surface of the street or to the heights otherwise specified by the Board of Trustees.

(B) Whenever the branches or limbs of any tree extend over streets or sidewalks contrary to such provisions so as to interfere with the lighting of the street from street lights or with the convenience of the public using the street or sidewalk, the village may proceed against the owner or occupant of the property abutting or adjacent to the street or sidewalk as provided in the state statutes.

Penalty, see § 10.99

§ 93.14 SIGNS AND CANOPIES.

(A) No person shall erect or maintain any sign, signboard, poster, or rigid canopy over any street, sidewalk, or alley or on other public property without having first obtained a permit therefor. Permits for signs, signboards, posters, and canopies shall be issued by the Village Clerk, subject to the approval of the Overseer of Streets, upon the payment of the fee, if any, established by the Board of Trustees.

(B) All signs, signboards, posters, and canopies extending over any public sidewalk, street, alley, or other public place must be securely fastened and constructed so that there will be no danger of the them being dislodged by ordinary winds or falling from other causes.

(C) No sign, signboard, poster, or canopy shall be erected or maintained which extends over any public sidewalk, street, alley, or other public place in such a location as to obstruct the view of any traffic light, sign, or signal.

(D) Upon a determination that a sign, signboard, poster, or canopy is in violation of this section, the village may proceed

against the owner or occupant of the premises where such the sign, signboard, poster, or canopy is located as provided in the state statutes.

Penalty, see § 10.99

§ 93.15 CUTTING INTO PAVING, CURB, OR SIDEWALK.

(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 Board of Trustees. Before any person obtains a permit, he or she shall inform the Village Clerk of the place where such cutting is to be done and it shall be the duty of the Overseer of Streets to inspect the proposed place of entry into the paving, sidewalk, or curb.

(B) When cutting into any paving, curb, or sidewalk, it shall be the duty of the party to comply with such rules and regulations as may be prescribed by the Board or the Village Engineer. When the applicant is ready to close the opening made, he or she shall inform the Overseer of Streets, who shall supervise and inspect the materials used and the work done in closing the opening.

(C) It shall be discretionary with the Board to order the Overseer of Streets, under the supervision and inspection of the Village Engineer or the committee of the Board on the streets and alleys, to do the cutting and closing of the paving, curb, or sidewalk and charge the costs thereof to the party who obtained the permit. The Board may consent to the cutting and closing of the paving, curb, or sidewalk by the party holding the permit.

(D) Before any permit is issued by the Board, the applicant for the 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. If the Board 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 Overseer of Streets or of the committee of the Board on streets and alleys.

(E) In addition to making the deposit, the applicant shall, before any permit is issued, execute a bond to the village with a good and sufficient surety to be approved by the Board in a sum set by resolution.

§ 93.16 HEAVY EQUIPMENT.

(A) It shall be unlawful for any person 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 curb, gutter, bridge, culvert, sidewalks, crosswalk, or crossing with heavy plank sufficient in strength to warrant against the breaking or damaging of such curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing.

(B) Except as provided in §71.05, it shall be unlawful to run, 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 the pavement; with wheels having cutting edges; with wheels having lugs, any 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, except that where heavy vehicles, structures, and machines move along paved or unpaved streets the village police are hereby authorized and empowered to choose the route over which the moving of such vehicles, structures, or machines will be permitted and allowed.

SALE AND ACQUISITION OF PROPERTY; PUBLIC WORKS

§ 93.30 SALE AND CONVEYANCE; REAL PROPERTY.

(A) Except as provided in division (G) of 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 that property and the manner and terms of such sales, except that the property shall not be sold at public auction or by sealed bid when:

- (1) The property is being sold in compliance with the requirements of federal or state grants or programs;
- (2) The property is being conveyed to another public agency; or
- (3) The property consists of streets and alleys.

(B) The Board of Trustees may establish a minimum price for real 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 property described in division (A) of this section and the terms of such sales shall be published once each week for three consecutive weeks in a legal newspaper in or of general circulation in the village.

(D) (1) If within 30 days after the third publication of the notice a remonstrance petition against the 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 village election held therein and is filed with the Board of Trustees, that property shall not then, nor within one year thereafter, be sold. If the date for filing the petition 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.

- (2) Upon the receipt of the petition, the Board of Trustees, with the aid and assistance of the Election Commissioner or

County Clerk, shall determine the validity and sufficiency of signatures on the petition. The Board of Trustees shall deliver the petition to the Election Commissioner or County Clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested.

(3) Upon receipt of the petition, the Election Commissioner or County Clerk shall issue to the Board of Trustees a written receipt that the petition is in the custody of the Election Commissioner or County Clerk. The Election Commissioner or County Clerk shall compare the signature of each person signing the petition with the voter registration records to determine if each signer was a registered voter on or before the date on which the petition was filed with the Board of Trustees. The Election Commissioner or County Clerk shall also compare the signer's printed name, street and number or voting precinct, and village 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 or County Clerk determines that the printed name, street and number or voting precinct, and village or post office address match the registration records and that the registration was received on or before the date on which the petition was filed with the Board of Trustees. The determinations of the Election Commissioner or County Clerk may be rebutted by any credible evidence which the Board of Trustees 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 petition, the sufficiency of the petition, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the petition process.

(4) Upon completion of the comparison of names and addresses with the voter registration records, the Election Commissioner or County Clerk 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 nonregistration of the signer, the Election Commissioner or County Clerk shall set forth the reason for the invalidity of the signature. If the Election Commissioner or County Clerk determines that a signer has affixed his or her signature more than once to the petition and that only one person is registered by that name, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature.

(5) The Election Commissioner or County Clerk shall certify to the Board of Trustees the number of valid signatures necessary to constitute a valid petition. The Election Commissioner or County Clerk shall deliver the petition and the certifications to the Board of Trustees within 40 days after the receipt of the remonstrance from the Board of Trustees. 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.

(6) The Board of Trustees shall, within 30 days after the receipt of the petition and certifications from the Election Commissioner or County Clerk, hold a public hearing to review the remonstrance and certifications and receive testimony regarding them. The Board of Trustees shall, following the hearing, vote on whether or not the remonstrance is valid and shall uphold the petition if sufficient valid signatures have been received.

(E) Real estate now owned or hereafter owned by the village may be conveyed without consideration to the state for state armory sites or, if acquired for state armory sites, shall be conveyed strictly in accordance with the conditions of Neb. RS 18-1001 through 18-1006.

(F) 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. The sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale.

(Neb. RS 17-503)

(G) Divisions (A) through (F) of this section shall not apply to the sale of real property if the authorizing resolution directs the sale of real property, the total fair market value of which is less than \$5,000. 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. RS 17-503.01)

§ 93.31 SALE AND CONVEYANCE; PERSONAL PROPERTY.

(A) The power of the village to convey any personal property owned by it shall be exercised by 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, notice of the sale shall also be published once in a legal newspaper in or of general circulation in the 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.

(B) Personal property may be conveyed notwithstanding the procedure in division (A) of this section when:

- (1) Such property is being sold in compliance with the requirements of federal or state grants or programs; or
- (2) Such property is being conveyed to another public agency.

(Neb. RS 17-503.02)

§ 93.32 ACQUISITION OR CONSTRUCTION OF PUBLIC BUILDINGS; ELECTION REQUIREMENTS.

(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, including the construction of buildings authorized to be constructed by Neb. RS Chapter 72, Article 14, and including construction of buildings to be leased in whole or in part by the village to any other political or governmental subdivision of the state authorized by law to lease such buildings, and maintain, manage, and operate the same for the benefit of the inhabitants of the village.

(B) Except as provided in division (C) of this section, before any such purchase can be made or building erected, the question shall be submitted to the electors of the village at a general village election or at an election duly called for that purpose, or as set forth in division (D) of this section, and be adopted by a majority of the electors voting on such question.

(Neb. RS 17-953)

(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 legal newspaper in or 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 petition against the purchase or construction is signed by registered voters 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 Board of Trustees. If the date for filing the petition 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. If a petition 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 Board of Trustees may proceed without providing the notice and right of petition required in division (C)(1) of this section 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. The purchase shall be approved by the Board of Trustees after notice and public hearing as provided in the state statutes.

(Neb. RS 17-953.01)

(D) (1) The Board of Trustees adopting the proposition to make such purchase or erect such building or buildings for the purposes set forth in division (A) of this section shall have the power to borrow money and pledge the property and credit of the village upon its negotiable bonds. No such bonds shall be issued until after the same have been authorized by a majority vote of the electors voting on the proposition of their issuance, at a general village election or at a special election called for the submission of such proposition. The question of such purchase or erection of such a building or buildings, as set forth in division (A) of this section, and the question of the issuance of the negotiable bonds referred to in this division may be submitted as one question at a general village or special election if so ordered by resolution or ordinance.

(2) Notice of the time and place of the election shall be given by publication in some legal newspaper printed in or of general circulation in the village three successive weeks immediately prior thereto.

(3) No such election for the issuance of such bonds shall be called until a petition therefor signed by at least 10% of the legal voters of the village has been presented to the Board of Trustees. The number of voters voting at the last regular village election prior to the presenting of the petition shall be deemed the number of votes in the village for the purpose of determining the sufficiency of the petition.

(4) The question of bond issues for such purpose in the village when defeated shall not be resubmitted for six months from and after the date of such election.

(5) When the building to be constructed is to be used by the state or its agency or agencies under a lease authorized by Neb. RS Chapter 72, Article 14, or the building is to be leased by any other political or governmental subdivision of the state, when the combined area of the building to be leased by the state or its agency or agencies and the political or governmental subdivision of the state is more than 50% of the area of the building, and when such sum does not exceed \$2,000,000, then no such vote of the electors will be required.

(Neb. RS 17-954)

§ 93.33 ACQUISITION OF REAL PROPERTY; APPRAISAL.

Notwithstanding any other provision of law, the village shall not purchase, lease-purchase, or acquire for consideration real property having an estimated value of \$100,000 or more unless an appraisal of such property has been performed by a certified real property appraiser.

(Neb. RS 13-403)

§ 93.34 ACQUISITION OF REAL PROPERTY; PUBLIC MEETING; ACCESS FOR RECREATIONAL USE.

(A) The village shall acquire an interest in real property by purchase or eminent domain only after the Board of Trustees

has authorized the acquisition by action taken in a public meeting after notice and public hearing.

(B) The village shall provide to the public a right of access for recreational use to real property acquired for public recreational purposes. Such access shall be at designated access points and shall be equal to the right of access for recreational use held by adjacent landowners. The right of access granted to the public for recreational use shall meet or exceed such right held by a private landowner adjacent to the real property.

(Neb. RS 18-1755)

§ 93.35 PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING; REQUIREMENTS.

(A) (1) Except as otherwise provided in this section and Neb. RS 81-3449 and 81-3453, the village shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer.

(2) This division (A) shall not apply to any public work in which the contemplated expenditure for the complete project does not exceed \$100,000 or the adjusted dollar amount set by the Board of Engineers and Architects.

(Neb. RS 81-3445)

(B) The provisions of division (A) of this section regulating the practice of architecture do not apply to the following activities or the other activities specified in Neb. RS 81-3449:

(1) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(2) A public service provider who employs a design professional performing professional services for itself;

(3) The practice of any other certified trade or legally recognized profession;

(4) Earthmoving and related work associated with soil and water conservation practices performed any land owned by the village that is not subject to a permit from the Department of Natural Resources; and

(5) The work of employees and agents of the village performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance.

(Neb. RS 81-3449)

(C) The provisions of division (A) of this section regulating the practice of engineering do not apply to the following activities, the activities specified in division (B) of this section, or the other activities specified in Neb. RS 81-3453:

(1) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant; and

(2) The construction of water wells as defined in Neb. RS 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by the village to be designed or supervised by an engineer or unless legal requirements are imposed upon the village as a part of a public water supply;

(Neb. RS 81-3453)

(D) For the purpose of this section, the village is considered a public service provider if it employs or appoints an architect or a professional engineer to be in responsible charge of the village's architectural or engineering work.

(Neb. RS 81-3423)

§ 93.36 SPECIAL ASSESSMENTS FOR PUBLIC WORKS OR IMPROVEMENTS; NOTICE TO NONRESIDENT PROPERTY OWNERS.

(A) Before any political subdivision or special taxing district for public works or public improvements shall be formed, and before the village or any political subdivision or special taxing district may impose any special assessment for public works or public improvements, a copy of any notice required to be published by law shall be mailed to the last-known address of all nonresident property owners as shown on the current tax rolls at the time such notice is first published.

(Neb. RS 13-310)

(B) The Village Clerk or any other person upon whom the duty is imposed by law to publish notice required by law in regard to the formation of a special taxing district for public works or public improvements shall mail by certified mail with return receipt requested a copy of the published notice in regard to the formation of any special taxing district within the village to the last-known address as shown on the current tax rolls of each nonresident property owner.

(Neb. RS 13-311)

(C) The Village Clerk or any other person upon whom the duty is imposed by law to publish notice required by law in regard to any special assessment by a special taxing district shall mail by certified mail with return receipt requested a copy of such notice to be published to the last-known address as shown on the current tax rolls of each nonresident property owner.

(Neb. RS 13-312)

(D) The failure of the Village Clerk any other person upon whom the duty is imposed by law to mail a copy of a published notice as provided in this section shall invalidate the assessment against the property involved while permitting all other assessments and procedures to be lawful.

(Neb. RS 13-313)

(E) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

NONRESIDENT PROPERTY OWNER. Any person or corporation whose residence and mailing address as shown on the current tax rolls is outside the boundaries of the county and who is a record owner of property within the boundaries of the village, special assessment district, or taxing district involved.

(Neb. RS 13-314)

SIDEWALKS

§ 93.50 REQUIREMENT 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 the sidewalk. Unless the Board of Trustees has provided otherwise, 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 9:00 a.m. the following day, and sidewalks within the residential areas of the village shall be cleaned within 24 hours after the cessation of the storm.

Penalty, see § 10.99

§ 93.51 USE OF SPACE BENEATH.

No person shall be allowed to keep or use the space beneath the sidewalk lying between lot line and curb line unless a permit has been obtained from the Board of Trustees. Before any permit is granted, the applicant shall submit plans and specifications of any present or proposed construction to the Village Engineer. If the plans or specifications are disapproved by the Engineer, no permit shall be granted. All permits hereafter granted shall continue only upon the condition that the party receiving them builds, maintains, and keeps in repair a sidewalk over the space used or constructed to be used and pays all damages that may be sustained by any person by reason of such use or by reason of the sidewalk being defective or in a dangerous condition. As a condition precedent to the issuance or continuance of any permit for the use of any space underneath the village sidewalks as contemplated in this section, the Board of Trustees may require the applicant to furnish a bond to the village as obligee for the benefit of any person who may suffer an injury or damage by reason of such use. The bond shall be in such sum as the Board of Trustees, in its discretion, may designate.

Penalty, see § 10.99

§ 92.52 CONSTRUCTION AT OWNER'S INITIATIVE.

(A) Any person desiring to construct, or cause to be constructed, any sidewalk shall do so only as provided in this section. It shall be unlawful for any person to construct any sidewalk without first having obtained a permit.

(B) The 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 Overseer of Streets shall issue the desired permit unless good cause appears why the permit should be denied, except that if it is desired to construct the sidewalk at any other than the regularly prescribed location, grade, or elevation, the Overseer of Streets shall submit the application to the Board of Trustees for determination as to whether the permit should be granted or denied. It shall be unlawful for any person to construct, or cause to be constructed, such sidewalk at any other location, grade, or elevation than so designated by the village. All sidewalks shall be built and constructed on the established grade or elevation, and if there is no established grade, then on the grade or elevation indicated by the Overseer of Streets.

§ 93.53 CONSTRUCTION AND REPAIR AT VILLAGE DIRECTION.

(A) (1) The Board of Trustees may construct and repair sidewalks or cause the construction and repair of sidewalks in such manner as the Board of Trustees deems necessary and assess the expense of such construction or repairs on the property in front of which such construction or repairs are made, after having given notice:

(a) By publication in one issue of a legal newspaper in or of general circulation in the village; and

(b) By either causing a written notice to be served upon the occupant in possession of the property involved or to be posted upon such premises ten days prior to the commencement of such construction or repair.

(2) The powers conferred under this section are in addition to those provided in Neb. RS 17-509 to 17-521 and may be exercised without creating an improvement district.

(3) If the owner of any property abutting any street or avenue or part thereof fails to construct or repair any sidewalk in front of the owner's property within the time and in the manner as directed and requested by the Board of Trustees, after having received due notice to do so, the Board of Trustees may cause the sidewalk to be constructed or repaired and may assess the cost of such construction or repairs against the property.

(Neb. RS 17-522)

(B) All sidewalks shall be constructed and repaired in conformity with such plans and specifications as may be approved by the Board of Trustees.

(C) Assessments made under the provisions of this section shall be made and assessed in the following manner:

(1) Such assessment shall be made by the Board of Trustees at a special meeting, by a resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements, and the amount charged against the same, which, with 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 in or of general circulation in the village at least four weeks before the same shall be held or, in lieu thereof, personal service may be made upon persons owning or occupying property to be assessed; and

(2) All such assessments shall be known as special assessments for improvements and shall be levied and collected as a separate tax, in addition to the taxes for general revenue purposes, and shall be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other village taxes.

(Neb. RS 17-524)

Statutory reference:

Authority to improve through sidewalk district, see Neb. RS 19-2417 through 19-2419

STREETS AND ALLEYS

§ 93.65 DEDICATION TO PUBLIC USE.

No street or alley shall be dedicated to public use, by the proprietor of ground in the village, shall be deemed a public street or alley, or shall be under the use or control of the Board of Trustees, unless the dedication shall be accepted and confirmed by an ordinance especially passed for such purpose.

(Neb. RS 17-567)

§ 93.66 GRADING, PAVING, AND OTHER IMPROVEMENTS.

The village has the power to provide for the grading and repair of any street, avenue, or alley and the construction of bridges, culverts, and sewers. No street, avenue, or alley shall be graded unless the grading is ordered to be done by the affirmative vote of 2/3 of the Board of Trustees.

(Neb. RS 17-508)

Cross reference:

Other provisions on grading and paving, see §92.02

Statutory reference:

Acquisition of additional land or easement, see Neb. RS 18-1705

Boundary street with county or another municipality, see Neb. RS 18-2005

Limited street improvement districts, see Neb. RS 19-2416

§ 93.67 IMPROVEMENTS WITHOUT PETITION OR CREATION OF DISTRICT.

(A) The village may, without petition or creating a street improvement district, grade, curb, gutter, and pave:

(1) Any portion of a street otherwise paved so as to make one continuous paved street, but the portion to be so improved shall not exceed two blocks, including intersections, or 1,325 feet, whichever is the lesser;

(2) Any unpaved street or alley which intersects a paved street for a distance of not to exceed one block on either side of that paved street; and

(3) Any side street or alley within its corporate limits connecting with a major traffic street for a distance not to exceed one block from that major traffic street.

(B) Those improvements may be performed upon any portion of a street or alley or any unpaved street or alley not previously improved to meet or exceed the minimum standards for pavement set by the village for its paved streets.

(C) In order to defray the costs and expenses of these improvements, the Board of Trustees may levy and collect special taxes and assessments or issue paving bonds as provided in Neb. RS 18-2003. (Neb. RS 18-2001 through 18-2004)

§ 93.68 OPENING, WIDENING, IMPROVING, OR VACATING.

(A) (1) The village shall have power to open, widen, or otherwise improve or vacate any street, avenue, alley, or lane within the limits of the village and also to create, open, and improve any new street, avenue, alley, or lane. All damages sustained by the citizens of the village, or by the owners of the property therein, shall be ascertained in that manner as shall be provided by ordinance.

(2) Whenever any street, avenue, alley, or lane is vacated, such street, avenue, alley, or lane shall revert to the owners of the abutting real estate, 1/2 on each side thereof, and become a part of that property, unless the village reserves title 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 interests of the village.

(3) When a portion of a street, avenue, alley, or lane is vacated only on one side of the center thereof, the title to the land shall vest in the owner of the abutting property and become a part of that property, unless the village reserves title in the ordinance vacating a portion of such street, avenue, alley, or lane. 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 interests of the village.

(4) When the village vacates all or any portion of a street, avenue, alley, or lane, the village shall, within 30 days after the effective date of the vacation, file a certified copy of the vacating ordinance with the Register of Deeds for the county in which the vacated property is located to be indexed against all affected lots.

(5) The title to property vacated pursuant to this section shall be subject to the following:

(a) 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

(b) 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. RS 17-558)

(B) The village shall have power to create, open, widen, or extend any street, avenue, alley, off-street parking area, or other public way, or annul, vacate, or discontinue such street, avenue, alley, area, or public way.

(Neb. RS 17-559)

§ 93.69 VACATING PUBLIC WAYS; PROCEDURE.

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

SPECIAL DAMAGES. Only those losses or damages or injuries which a property owner suffers that are peculiar or special or unique to his or her property and which result from the Board of Trustees vacating a street, avenue, alley, lane, or similar public way. **SPECIAL DAMAGES** shall not mean those losses or damages or injuries that a property owner suffers that are in common with the rest of the village or public at large, even though those losses or damages or injuries suffered by the property owner are greater in degree than the rest of the village or public at large.

(B) Whenever the Board of Trustees 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 of Trustees shall comply with the following procedure.

(1) *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 Board of Trustees will consider vacating that street, avenue, alley, lane, or similar public way at its next regular meeting, or, if a special meeting is scheduled for the discussion, then the date, time, and place of that meeting.

(2) *Consent; waiver.* The Board of Trustees may have all the abutting property owners sign a form stating that they consent to the action being taken by the Board of Trustees and waive their right of access. The signing of this form shall have no effect on claims for special damages by the abutting property owners but shall create the presumption that the Board of Trustees' action was proper. If the abutting property owners do not sign the consent/waiver form, the Board of Trustees may still proceed with vacating the street, avenue, alley, lane, or similar public way under the authority granted by Neb. RS 17-558 and 17-559.

(3) *Ordinance.* The Board of Trustees shall pass an ordinance that includes essentially the following provisions:

(a) A declaration that the action is expedient for the public good or in the best interests of the village;

- (b) A statement that the village will have an easement for maintaining all utilities; and
- (c) A method or procedure for ascertaining special damages to abutting property owners.

(C) The Chairperson shall appoint three or 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 Board of Trustees vacating the street, avenue, alley, lane, or similar public way. The appointees of the special commission shall be approved by the Board of Trustees. Only special damages 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 commission shall use the following rule:

An abutting property owner is entitled to recover as compensation the difference between the value of the property immediately before and immediately after the vacating of the street, avenue, alley, lane, or similar public way. If no difference in value exists, the abutting property owner is entitled to no compensation.

§ 93.70 CROSSINGS.

The Board of Trustees may order and cause to be constructed, under the supervision of the Overseer of Streets, those street, avenue, and alley crossings as the Board of Trustees deems necessary. When a petition for the construction of any such crossings is filed by an interested resident in the office of the Village Clerk, the Village Clerk shall refer the application to the Overseer of Streets, who shall investigate and make a recommendation to the Board of Trustees. Action by the Board of Trustees on the application, whether the application is approved or rejected, shall be considered final.

§ 93.71 NAMES AND NUMBERS.

The Board of Trustees 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 those streets shall retain those numbers as the Board of Trustees may require. It shall be the duty of the Overseer of Streets, upon the erection of any new building, to assign the proper numbers to the building and give notice to the owner and occupant of the same.

Penalty, see § 10.99

§ 93.72 DRIVEWAY APPROACHES.

(A) The Overseer of Streets 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.

(B) The Village Clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of the owner or the agent of the owner, directing the repair or replacement of the driveway approach. If within 30 days of mailing the notice the property owner fails or neglects to cause the repairs or replacements to be made, the Overseer of Streets may cause the work to be done and assess the cost upon the property served by the approach.

(Neb. RS 18-1748) Penalty, see § 10.99

§ 93.73 EXCAVATION.

It shall be unlawful for any person to make an excavation in any street or streets for any purpose whatsoever unless a written permit is issued by the Overseer of Streets authorizing those excavations.

Penalty, see § 10.99

§ 93.74 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 first procuring the written consent of the Overseer of Streets.

Penalty, see § 10.99

§ 93.75 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.

Penalty, see § 10.99

§ 93.76 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 the streets.

Penalty, see § 10.99

§ 93.77 SNOW, DEBRIS, AND THE LIKE ON STREET PROHIBITED.

It shall be unlawful to place, push, or deposit snow, sleet, ice, or mud, or any debris, including leaves, grass, and branches, from private property onto the streets of the village.

Penalty, see § 10.99

Statutory reference:

Authority to regulate, see Neb. RS 17-557

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. ALCOHOLIC BEVERAGES**
- 111. TOBACCO**
- 112. PEDDLERS AND HAWKERS**
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CHAPTER 110: ALCOHOLIC BEVERAGES

Section

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§ 110.01 DEFINITIONS.

For the purpose of this chapter, the definitions found in Neb. RS 53-103.01 through 53-103.42 shall be used.

(1997 Code, § 10-504)

§ 110.02 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 municipality unless said person shall have in full force and effect a license as provided by the State Liquor Control Act, being Neb. RS 53-101 through 53-1,122.

(1997 Code, § 10-505) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-102

§ 110.03 LOCATION.

(A) Except as otherwise provided in division (B) below, no license shall be issued for the sale at retail of 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 of 150 feet:

(1) For which a license to sell alcoholic liquor at retail has been granted by the State Liquor Control Commission for two years continuously prior to making of application for license;

(2) To hotels offering restaurant service, to regularly organized clubs, or to restaurants, food shops or other places where sale of alcoholic liquor is not the principal business carried on, if such place of business so exempted was established for such purposes prior to May 24, 1935; or

(3) To a college or university in the state which is subject to Neb. RS 53-177.01.

(B) If a proposed location for the sale at retail of any alcoholic liquor is within 150 feet of any church, a license may be issued if the commission gives notice to the affected church and holds a hearing as prescribed in Neb. RS 53-133.

(C) No alcoholic liquor, other than beer, shall be sold for consumption on the premises within 300 feet from the campus of any college or university within the municipality, except that this section:

(1) Does not prohibit a nonpublic college or university from contracting with an individual or corporation holding a license to sell alcoholic liquor at retail for the purpose of selling alcoholic liquor at retail on the campus of such college or university at events sanctioned by such college or university but does prohibit the sale of alcoholic liquor at retail by such licensee on the campus of such nonpublic college or university at student activities or events; and

(2) Does not prohibit sales of alcoholic liquor by a community college culinary education program pursuant to Neb. RS 53-124.15.

(1997 Code, § 10-506) (Ord. 04-12, passed 2-14-2012) Penalty, see §110.99

Statutory reference:

Related provisions, see Neb. RS 53-177, 53-177.01

§ 110.04 DWELLINGS.

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises which has 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 by the public. Nothing herein shall prevent any connection with such premises, and such other portion of the building which is used only by the licensee, his or her family, or personal guests.

(1997 Code, § 10-507) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-178

§ 110.05 LICENSE DISPLAYED.

Every licensee under the State Liquor Control Act, being Neb. RS 53-101 through 53-1,122 shall cause his or her license to be framed and hung in plain public view in a conspicuous place on the licensed premises.

(1997 Code, § 10-508) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-148

§ 110.06 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 state statute.

(1997 Code, § 10-509) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-1,101

§ 110.07 EMPLOYER.

The employer of any officer, director, manager or employees 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, if such act is committed or omission made with the authorization, knowledge or approval of the employer or licensee, and 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.

(1997 Code, § 10-510) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-1,102

§ 110.08 SALE OR GIFT TO MINOR AND MENTALLY INCOMPETENT PERSON

PROHIBITED.

No person shall sell, furnish, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquors, to or for any minor or to any person who is mentally incompetent.

(1997 Code, § 10-511) (Ord. 03-12, passed 2-14-2012) Penalty, see §110.99

Statutory reference:

Related provisions, see Neb. RS 53-180

§ 110.09 CREDIT SALES PROHIBITED.

(A) 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.

(B) Nothing in this section shall prevent the following:

(1) Any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members or bona fide guests of members and charged to the account of such members or guests in accordance with the bylaws of such club;

(2) Any hotel or restaurant holding a retail license from permitting checks or statements for liquor to be signed by regular guests residing at such hotel or eating at such restaurant and charged to the accounts of such guests; or

(3) Any licensed retailer engaged in the sale of wine from issuing wine-tasting cards to customers.

(1997 Code, § 10-512) (Ord. 02-12, passed 2-14-2012) Penalty, see §110.99

Statutory reference:

Related provisions, see Neb. RS 53-183

§ 110.10 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 liquor contained in casks, or other containers except in the original package. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale.

(1997 Code, § 10-514) (Ord. 3-92, passed 2-11-1992) Penalty, see §110.99

Statutory reference:

Related provisions, see Neb. RS 53-184

§ 110.11 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 his or her parent or legal guardian, and unless said minor remains seated with, and under the immediate control of, the said parent or legal guardian.

(1997 Code, § 10-515) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-147

§ 110.12 HOURS OF SALE.

(A) It shall be unlawful for any person or persons to sell at retail any alcoholic beverages during the hours that the polls are open on the day in which any statewide primary or general election is conducted.

(B) It shall further be unlawful for any licensed person or persons or their agents to sell any alcoholic beverages within the municipality except during the hours provided herein:

Hours of Sale	
Alcoholic Liquors (except beer and wine)	
Secular days	
Off-sale	6:00 a.m. to 1:00 a.m.
On-sale	6:00 a.m. to 1:00 a.m.
Sundays	Prohibited
Beer and Wine	
Secular days	
Off-sale	6:00 a.m. to 1:00 a.m.
On-sale	6:00 a.m. to 1:00 a.m.
Sundays	
Off-sale	6:00 a.m. to 1:00 a.m.

(C) Provided, that 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 license or a Class I license.

(D) No person or persons shall consume any alcoholic beverages on licensed premises for a period of time longer than 15 minutes after the time fixed herein for stopping the sale of alcoholic beverages on the said premises. For the purposes of this section, **ON SALE** shall be defined as alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment; **OFF SALE** shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

(E) Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this section.

(1997 Code, § 10-516) (Ord. 13-05, passed 2-7-2005) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-179

§ 110.13 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 governing body or the municipal 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.

(1997 Code, § 10-517) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-118

§ 110.14 HIRING MINORS.

It shall be unlawful for any person to hire a minor regardless of sex under the age of 19 years to serve or dispense alcoholic liquors, including beer, to said licensee's customers.

(1997 Code, § 10-518) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-102

§ 110.15 CONSUMPTION IN PUBLIC PLACES OR PLACES OPEN TO THE PUBLIC; RESTRICTIONS.

(A) Except when the State Liquor Control Commission has issued a license as provided in Neb. RS 53-186(2) or as provided in Neb. RS 60-6,211.08, 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.

(B) It is unlawful for any person owning, operating, managing or conducting any dance hall, restaurant, café or club or any place open to the general public to permit or allow any person to consume alcoholic liquor upon the premises except as permitted by a license issued for such premises pursuant to the State Liquor Control Act, being Neb. RS 53-101 through 53-1,122. It is unlawful for any person to consume alcoholic liquor in any dance hall, restaurant, café or club or any place open to the general public except as permitted by a license issued for such premises pursuant to the Act. This division (B) does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages or to limousines or buses operated under Neb. RS 60-6,211.08.

(1997 Code, § 10-519) (Ord. 00-02, passed 6-13-2000; Ord. 01-12, passed 2-14-2012) Penalty, see §110.99

Statutory reference:

Related provisions, see Neb. RS 53-186, 53-186.01

§ 110.16 REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY.

(A) Any law enforcement officer with the 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.

(1) 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, mental health substance use treatment 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 doctor which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals.

(2) 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 longer than 24 hours. The placement of such person in civil protective custody shall be recorded at the facility or jail at 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.

(B) 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. 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.

(C) For purposes of this section, **MENTAL HEALTH SUBSTANCE USE TREATMENT** shall have the same meaning as in Neb. RS 71-423.

(D) For purposes of this section, **PUBLIC PROPERTY** shall mean any public right-of-way, street, highway, alley, park or other state, county or municipally-owned property.

(E) For the purposes of this section, **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.

(1997 Code, § 10-520) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-1,121

§ 110.17 LICENSED PREMISES; INSPECTIONS.

The governing body shall cause frequent inspection to be made on the premises of all retail licensees. If it is found that any such licensee is violating any provision of this chapter, the State Liquor Control Act, being Neb. RS 53-101 through 53-1,122, or the rules and regulations of the State Liquor Control Commission or is failing to observe in good faith the purposes of this chapter or 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.

(1997 Code, § 10-521) (Ord. 09-05, passed 2-7-2005) Penalty, see §110.99

Statutory reference:

Related provisions, see Neb. RS 53-116.01

§ 110.18 CITIZEN COMPLAINTS.

Any five residents of the municipality shall have the right to file a complaint with the governing body stating that any retail licensee subject to the jurisdiction of the governing body has been or is violating any provision of the State Liquor Control Act, being Neb. RS 53-101 through 53-1,122 or the rules or regulations issued pursuant to the Act. Such complaint shall be in writing in the form prescribed by the governing body and shall be signed and sworn to 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. If the governing body 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 shall in all cases be disposed of by the governing body within 30 days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the State Liquor Control Commission as provided in Neb. RS 53-1,115.

(1997 Code, § 10-522) (Ord. 12-05, passed 2-7-2005) Penalty, see §110.99

Statutory reference:

Related provisions, see Neb. RS 53-134.04

§ 110.19 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 is 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. RS Chapter 28, Articles 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; or a person who has not acquired a beneficial interest in more than two alcoholic beverage retail establishments since March 4, 1963; provided, the beneficial interest requirement in this section shall not apply to a person applying for an additional license for use in connection with the operation of a hotel containing at least 25 sleeping rooms, or where the request is limited to on premises sale of beer only in a restaurant.

(1997 Code, § 10-523) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-124.03, 53-125

§ 110.20 LICENSE RENEWAL; MUNICIPAL POWERS AND DUTIES,

(A) A retail license issued by the State Liquor Control Commission and outstanding may be automatically renewed by the commission in the absence of a written request by the governing body to require the licensee to submit an application for renewal. Any licensed retail premises located in an area which is annexed to the municipality shall file a formal application for a license, and while such application is pending, the licensee may continue all license privileges until the original license expires or 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 shall cause to be published in a legal newspaper in or of general circulation in the municipality, one time between January 10 and January 30 of each year, individual notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the municipality, except that notice of the right of automatic renewal of Class C licenses shall be published between the dates of July 10 and July 30 of each year. If written protests to the issuance of automatic renewal of a license are filed in the office of the Village Clerk by three or more residents of the municipality on or before February 10, or August 10 for Class C licenses, the governing body shall hold a hearing to determine whether continuation of the license should be allowed. Upon the conclusion of any hearing required by this section, the governing body may request a licensee to submit an application as provided in Neb. RS 53-135.

(1997 Code, § 10-524) (Ord. 10-05, passed 2-7-2005) Penalty, see §110.99

Statutory reference:

Related provisions, see Neb. RS 53-135, 53-135.01

§ 110.21 LICENSES; MUNICIPAL POWERS AND DUTIES.

(A) The governing body is authorized to regulate by ordinance, not inconsistent with the State Liquor Control Act, being Neb. RS 53-101 through 53-1,122, the business of all retail, craft brewery and microdistillery licensees carried on within the corporate limits of the municipality.

(B) During the period of 45 days after the date of receipt by mail or electronic delivery from the State Liquor Control Commission notice and a copy of an application for a new license to sell alcoholic liquor at retail, a craft brewery license or a microdistillery license, the governing body may make and submit to the Commission recommendations relative to the granting or refusal to grant the license to the applicant.

(C) The governing body, with respect to licenses within the corporate limits of the municipality, has the following powers, functions and duties with respect to retail, craft brewery and microdistillery licenses:

(1) To cancel or revoke for cause retail, craft brewery or microdistillery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the State Liquor Control Commission;

(2) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the State Liquor Control Act, being Neb. RS 53-101 through 53-1,122 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 governing body has been or is being violated, and at that time examine the premises of the licensee in connection with such determination. Any law enforcement officer who determines that 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 governing body has been or is being violated shall report such violation in writing to the Executive Director of the Commission:

(a) Within 30 days after determining that such violation has occurred;

(b) Within 30 days after the conclusion of an ongoing police investigation; or

(c) Within 30 days after the verdict in a prosecution related to such an ongoing police investigation if the prosecuting attorney determines that reporting such violation prior to the verdict would jeopardize such prosecution, whichever is later.

(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 these complaints in the manner provided in the Act;

(4) To receive retail, craft brewery and microdistillery license fees as provided in Neb. RS 53-124 and 53-124.01 and pay the same, after the license has been delivered to the applicant, to the Municipal Treasurer;

(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 governing body 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 for citizen complaints, it determines that the licensee has violated any of the provisions of the State Liquor Control Act, being Neb. RS 53-101 through 53-1,122 or any valid and subsisting ordinance, resolution, rule or regulation duly enacted, adopted and promulgated relating to alcoholic liquor. The 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. The Commission shall handle the appeal in the manner provided for hearing on an application in Neb. RS 53-133; and

(7) Upon receipt from the Commission of the notice and copy of application as provided in Neb. RS 53-131, to fix a time and place for a hearing at which the governing body 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 the hearing shall be published in a legal newspaper in or of general circulation in the municipality, one time not less than seven and not more than 14 days before the time of the hearing. The notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the governing body in support of or in protest against the issuance of the license may do so at the time of the hearing. The hearing shall be held not more than 45 days after the date of receipt of the notice from the Commission, and after the hearing the governing body shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of the 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) (1) When the State Liquor Control Commission mails or delivers to the Village Clerk a retail, craft brewery or microdistillery license issued or renewed by the Commission, the Clerk shall deliver the license to the licensee upon receipt from the licensee of proof of payment of:

(a) The license fee if by the terms of Neb. RS 53-124 the fee is payable to the Municipal Treasurer;

(b) Any fee for publication of notice of hearing before the governing body upon the application for the license;

(c) The fee for publication of notice of renewal, if applicable, as provided in Neb. RS 53-135.03; and

(d) Occupation taxes, if any, imposed by the municipality.

(2) Notwithstanding any ordinance or charter power to the contrary, the municipality shall not impose an occupation tax on the business of any person, firm or corporation licensed under the State Liquor Control Act, being Neb. RS 53-101 through 53-1,122 and doing business within the corporate limits of the municipality in any sum which exceeds two times the amount of the license fee required to be paid under the Act to obtain that license.

(1997 Code, § 10-525) (Ord. 00-03, passed 6-13-2000; Ord. 20-02, passed 3-12-2002; Ord. 08-05, passed 2-7-2005; Ord. 05-12, passed 2-14-2012) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-131, 53-132, 53-134, 53-134.03

§ 110.22 MANUFACTURE, SALE, DELIVERY AND POSSESSION: GENERAL PROHIBITIONS; EXCEPTIONS.

(A) No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish or possess any alcoholic liquor for beverage purposes except as specifically provided in this chapter and the State Liquor Control Act, being Neb. RS 53-101 through 53-1,122.

(B) Nothing in this chapter shall prevent:

(1) The possession of alcoholic liquor legally obtained as provided in this chapter or the Act for the personal use of the possessor and his or her family or guests;

(2) The making of wine, cider or other alcoholic liquor by a person from fruits, vegetables or grains or the product thereof, by simple fermentation and without distillation, if made solely for the use of the maker and his or her family and guests;

(3) 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 the 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 the compounding of prescriptions of licensed physicians;

(4) The possession and dispensation of alcoholic liquor by an authorized representative of any religion on the premises of a place of worship, for the purpose of conducting any bona fide religious rite, ritual or ceremony;

(5) 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;

(6) Persons who are 16 years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment;

(7) 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

(8) Persons who are 19 years old or older from serving or selling alcoholic liquor in the course of their employment.

(1997 Code, § 10-526) (Ord. 96-16, passed 1-9-1996; Ord. 19-02, passed 3-12-2002) Penalty, see §110.99

Statutory reference:

Related provisions, see Neb. RS 53-168.06

§ 110.23 CATERING LICENSES.

(A) The holder of a license to sell alcoholic liquor at retail issued under Neb. RS 53-124, a craft brewery license, a microdistillery license or a farm winery license may obtain an annual catering license as prescribed in this section. The catering license shall be issued for the same period and may be renewed in the same manner as the retail license, craft brewery license or farm winery license.

(B) Any person desiring to obtain a catering license shall file with the Commission:

(1) An application in triplicate original upon such forms as the Commission prescribes; and

(2) A license fee of \$100 payable to the Commission, which fee shall be returned to the applicant if the application is denied.

(C) (1) When an application for a catering license is filed, the Commission shall notify, by registered or certified mail, return receipt requested with postage prepaid:

(a) The Clerk of the village in which such applicant is located; or

(b) If the applicant is not located within a city or incorporated village, the county clerk of the county in which such applicant is located.

(2) The Board of Trustees and the Commission shall process the application in the same manner as provided in Neb. RS 53-132.

(D) (1) The governing body, with respect to catering licensees within its liquor license jurisdiction as provided in Neb. RS 53-132(5) may cancel a catering license for cause for the remainder of the period for which such catering license is issued.

(2) Any person whose catering license is canceled may appeal to the District Court of the county in which the local governing body is located.

(E) (1) The governing body may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the governing body as provided in Neb. RS 53-132(5).

(2) The tax may not exceed double the license fee to be paid under this section.

(1997 Code, § 10-527) (Ord. 11-88, passed 9-13-1988; Ord. 5-92, passed 2-11-1992; Ord. 95-11, passed 3-14-1995; Ord. 97-26, passed 6-10-1997; Ord. 00-01, passed 6-13-2000; Ord. 21-02, passed 3-12-2002; Ord. 11-05, passed 2-7-2005) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-124.12

z§ 110.24 KEG SALES; REGISTRATION; KEG IDENTIFICATION NUMBERS; PROHIBITED ACTS.

(A) When any person licensed to sell alcoholic liquor at retail sells beer for consumption off the premises in a container with a liquid capacity of five or more gallons or eighteen and ninety-two hundredths or more liters, the seller shall record the date of sale, the keg identification number, the purchaser's name and address, and the number of the purchaser's motor vehicle operator's license, state identification card or military identification, if such military identification contains a picture of the purchaser, together with the purchaser's signature. Such record shall be on a form prescribed by the Liquor Control Commission and shall be kept by the licensee at the retail establishment where the purchase was made for not less than six months. Such records kept pursuant to this section shall be available for inspection by any law enforcement officer during normal business hours or at any other reasonable time. Any person violating this section shall be guilty of an offense.

(B) Licensees shall place a label bearing a keg identification number on each keg at the time of retail sale. Any person who unlawfully tampers with, alters or removes the keg identification number from a beer container or is in possession of a beer container described in division (A) above with an altered or removed keg identification number after such container has been taken from the licensed premises pursuant to a retail sale and before its return to such licensed premises or other place where returned kegs are accepted shall be guilty of an offense.

(1997 Code, § 10-528) (Ord. 33-94, passed 7-12-1994) Penalty, see §110.99

Statutory reference:

Related provisions, see Neb. RS 53-167.02, 53-167.03

§ 110.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) 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.

(1997 Code, § 10-801) (Ord. 00-12, passed 6-13-2000)

Statutory reference:

Related provisions, see Neb. RS 17-207, 17-505, 18-1720, 18-1722

CHAPTER 111: TOBACCO

Section

- 111.01 License to sell; issuance
- 111.02 License application
- 111.03 License term; fees
- 111.04 Rights of licensee
- 111.05 Disposition of fees
- 111.06 Transfer of license
- 111.07 Reissuance of revoked and forfeited license

111.99 Penalty

§ 111.01 LICENSE TO SELL; ISSUANCE.

Licenses for the sale of cigars, tobacco, electronic nicotine delivery systems, cigarettes, and cigarette material to persons

19 years of age or over shall be issued to individuals, partnerships, limited liability companies and corporations by the Village Clerk upon application duly made as provided in this chapter.

(1997 Code, § 10-701) (Ord. 98-27, passed 7-14-1998; Ord. 15-03, passed 4-14-2015)

Statutory reference:

Licenses required, see Neb. RS 28-1420

Prohibited sales, see Neb. RS 28-1421

Related provisions, see Neb. RS 28-1421

§ 111.02 LICENSE APPLICATION.

Every person, partnership, limited liability company or corporation desiring a license under Neb. RS 28-1420 to 28-1429 shall file with the Village Clerk a written application stating the name of the person, partnership, limited liability company or corporation for whom the license is desired and the exact location of the place of business and shall deposit with the application the amount of the license fee provided in this chapter. If the applicant is an individual, the application shall include the applicant's Social Security number.

(1997 Code, § 10-702) (Ord. 15-03, passed 4-14-2015)

Statutory reference:

Related provisions, see Neb. RS 28-1422

§ 111.03 LICENSE TERM; FEES.

(A) The term for which a license shall run shall be from the date of filing the application and paying the license fee to and including December 31 of the calendar year in which application for the license is made.

(B) The license fee for any person, partnership, limited liability company or corporation selling at retail shall be \$10.

(C) Any person, partnership, limited liability company or corporation selling annually in the aggregate more than 150,000 cigars, packages of cigarettes, electronic nicotine delivery systems, and packages of tobacco in any form, at wholesale, shall pay a license fee of \$100, and if such combined annual sales amount to less than 150,000 cigars, packages of cigarettes, electronic nicotine delivery systems, and packages of tobacco, the annual license fee shall be \$15. No wholesaler's license shall be issued in any year on a less basis than \$100 per annum unless the applicant shall file with the application a statement duly sworn to by himself or herself, or if applicant is a partnership, by a member of the firm, or if a limited liability company, by a member or manager of the company, or if a corporation, by an officer or manager thereof, that in the past such wholesaler's combined sales of cigars, packages of cigarettes, electronic nicotine delivery systems, and packages of tobacco in every form have not exceeded in the aggregate 150,000 annually and that such sales will not exceed such aggregate amount for the current year for which the license is to issue. Any person swearing falsely in such affidavit shall be guilty of an offense, and such wholesaler's license shall be revoked until the full license fee is paid.

(D) If application for license is made after July 1 of any calendar year, the fee shall be one-half of the fee provided in this section.

(1997 Code, § 10-703) (Ord. 15-03, passed 4-14-2015)

Statutory reference:

Related provisions, see Neb. RS 28-1423

§ 111.04 RIGHTS OF LICENSEE.

(A) The license provided for in this chapter, shall, when issued, authorize the sale of cigars, tobacco, electronic nicotine delivery systems, cigarettes, and cigarette by the licensee and employees, to persons 19 years of age or over, at the place of business described in the license for the term therein authorized, unless the license is forfeited as a result of court action as provided in Neb. RS 28-1425.

(Neb. RS 28-1424)

(B) If the license is revoked and forfeited pursuant to Neb. RS 28-1425, all rights under the license shall at once cease and terminate.

(Neb. RS 28-1425)

Statutory reference:

Sale to person under 19 prohibited; penalties, see Neb. RS 28-1425

§ 111.05 DISPOSITION OF FEES.

All money collected as license fees under the provisions of this chapter shall be paid over by the Village Clerk to the Treasurer of the School Fund for the village.

(1997 Code, § 10-705) (Ord. 15-03, passed 4-14-2015)

Statutory reference:

Related provisions, see Neb. RS 28-1426

§ 111.06 TRANSFER OF LICENSE.

(A) In case of the sale of a business where the owner has a license hereunder, the Village Clerk may authorize such license to be transferred to the purchaser.

(B) In case of a change of location by any licensee hereunder, the Clerk may transfer such license to the new location.

(1997 Code, § 10-706) (Ord. 15-03, passed 4-14-2015)

Statutory reference:

Related provisions, see Neb. RS 28-1428

§ 111.07 REISSUANCE OF REVOKED AND FORFEITED LICENSE.

In the event that the license of a licensee hereunder shall be revoked and forfeited as provided in Neb. RS 28-1425, no new license shall be issued to such licensee until the expiration of one year from the date of such revocation and forfeiture.

(1997 Code, § 10-707) (Ord. 15-03, passed 4-14-2015)

Statutory reference:

Related provisions, see Neb. RS 28-1429

§ 111.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) 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.

(1997 Code, § 10-801) (Ord. 00-12, passed 6-13-2000)

Statutory reference:

Related provisions, see Neb. RS 17-207, 17-505, 18-1720, 18-1722

CHAPTER 112: PEDDLERS AND HAWKERS

Section

112.01 Regulation

112.02 Hours of solicitation

112.03 Exceptions

112.99 Penalty

§ 112.01 REGULATION.

To prevent the sale of fraudulent, dangerous and unhealthful goods and services, and to protect the public by maintaining records of the products sold and the persons and companies responsible for such sales, all peddlers, and hawkers shall, before doing business within the municipality, make application for, and be issued a permit. Application for said permit shall be made to the Village Clerk, and shall contain all the necessary information, and documents required for the protection of the residents of the municipality. Any person or persons granted a peddler and hawker permit shall be subject to any fees, occupation taxes and other rules and regulations which the governing body deems appropriate for the purposes stated herein. Any permit so granted shall be subject to revocation for good and sufficient cause by the Village Clerk. Any person or persons who have been granted a permit shall be issued a permit card. Such permit card shall be produced upon request of any person within the village.

(1997 Code, § 10-101) Penalty, see § 112.99

Statutory reference:

Related provisions, see Neb. RS 17-525, 17-562

§ 112.02 HOURS OF SOLICITATION.

It shall be unlawful for any solicitor, salesperson or peddler to solicit any individual between the hours of 8:00 p.m., and 9:00 a.m., unless they have a previous appointment with the resident, or residents, of the premises solicited. It shall be unlawful at any hour for a solicitor, salesperson or peddler to solicit without a proper permit on his or her person at all times.

(1997 Code, § 10-102) Penalty, see § 112.99

Statutory reference:

Related provisions, see Neb. RS 17-134, 17-562

§ 112.03 EXCEPTIONS.

Nothing herein shall be construed to apply to any person, or persons, selling produce raised within the county, or to wholesale salespersons soliciting merchants directly, or to a representative of a non-profit or charity organization soliciting on behalf of that organization.

(1997 Code, § 10-103)

Statutory reference:

Related provisions, see Neb. RS 17-562

§ 112.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) 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.

(1997 Code, § 10-801) (Ord. 00-12, passed 6-13-2000)

Statutory reference:

Related provisions, see Neb. RS 17-207, 17-505, 18-1720, 18-1722

CHAPTER 113: TRAILERS AND TRAILER PARKS

Section

General Provisions

- 113.01 Definitions
- 113.02 Parking of trailers; prohibition
- 113.03 Trailers parked on private property; regulations
- 113.04 Parking permit; private property
- 113.05 Application for parking permit
- 113.06 Issuance; fee; expiration of permit
- 113.07 Renewal
- 113.08 Revocation or suspension
- 113.09 Plumbing fixtures, required
- 113.10 Removal of wheels
- 113.11 Applicability

Trailer Parks

- 113.25 Permit to operate
- 113.26 Permit application; accompanying information and material
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- 113.28 Display of permit
- 113.29 Renewal
- 113.30 Revocation or suspension
- 113.31 Park plan
- 113.32 Site, location and arrangement requirements
- 113.33 Water supply
- 113.34 Sanitary facilities
- 113.35 Sewage and refuse disposal
- 113.36 Garbage, trash receptacles
- 113.37 Plumbing and electrical work
- 113.38 Duties of attendants
- 113.39 Registration of occupants
- 113.40 Communicable diseases, notification

- 113.99 Penalty

GENERAL PROVISIONS

§ 113.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

TRAILER COACH. Any vehicle used or maintained for use, as a conveyance upon the highways or streets, so designed and constructed as to permit occupancy thereof as a temporary dwelling or sleeping place for one or more persons, on temporary foundations, wheels or jacks.

TRAILER COACH LOT. A unit of level, adequately drained ground of definite size, clearly indicated by corner markers, for the placing of a trailer coach or a trailer coach and tow-car.

TRAILER PARK. Any site, lot, field or tract of ground upon which two or more trailer coaches are placed, including any building, structure, tent, vehicle or enclosure used or intended for use as a part of the equipment of such park.

(1997 Code, § 10-201)

§ 113.02 PARKING OF TRAILERS; PROHIBITIONS.

No person shall park any trailer coach of any kind on any street, alley, highway or other public place within the village.

(1997 Code, § 10-202) Penalty, see § 113.99

§ 113.03 TRAILERS PARKED ON PRIVATE PROPERTY; REGULATIONS.

(A) No trailer coach shall be parked, used or occupied on any tract of ground within the village, except as provided in this chapter.

(B) All inhabited trailers shall be located in a trailer park that has received a special permit as required by §113.25. No trailer outside of an approved trailer park shall be connected to utilities except those being offered for sale by dealers or manufacturers and not inhabited. Any vehicle, with or without motive power, designed for living quarters, and used as such, must comply to the provisions of this chapter relating to trailers.

(C) Beginning with the effective date of this section, all trailers, not now located within the village limits, shall comply with the terms and provisions of this chapter.

(D) The lawful use of land for trailer parking purposes on December 22, 1966, although such use does not conform to the provisions of this section, may be continued, but if such nonconforming use shall be abandoned, any further use of such premises shall be in conformity with this section.

(1997 Code, § 10-203) Penalty, see § 113.99

§ 113.04 PARKING PERMIT; PRIVATE PROPERTY.

No person shall park, use or occupy any trailer coach for more than 48 hours on the premises of any occupied or unoccupied dwelling, nor for more than 24 hours on any lot which is not a part of the premises of any occupied or unoccupied dwelling, unless a permit therefor shall have been first obtained from the Board of Trustees nor shall any person permit such parking, use or occupancy unless the occupant of the trailer coach shall first have so obtained a permit therefor.

(1997 Code, § 10-204) Penalty, see § 113.99

§ 113.05 APPLICATION FOR PARKING PERMIT.

(A) An application for a permit required by § 113.04 shall contain the name of the street, the number of the occupied or unoccupied dwelling, the name of the occupant or owner of such dwelling and his or her permission to locate; a statement of the nature and location of sanitary facilities and the permission of the occupant of the dwelling house for their use; and a statement that all waste water from trailer coach sinks shall be emptied into a proper sewer connected fixture.

(B) Application for a permit to locate on a vacant lot shall contain the name of the street and lot and block number, where platted; or the name of the street and approximate distance from the nearest intersection, in the case of unplatted tracts; and a statement that all waste water from the trailer coach shall be emptied into a property sewer connection fixture.

(1997 Code, § 10-205)

§ 113.06 ISSUANCE; FEE; EXPIRATION OF PERMIT.

A permit required by § 113.04 shall be issued for a period of one year and at a fee of \$10, no part of which will be refunded if the occupancy is terminated at any time before the expiration of the year for which the permit is issued. The permit shall be granted only upon the written consent of the owner, legal agent or lessee of the premises for which the permit is issued.

(1997 Code, § 10-206)

§ 113.07 RENEWAL.

Before the renewal of any trailer coach parking permit, an inspection shall be made by the Village Clerk/Utilities Superintendent to determine that all the requirements of this chapter have been complied with.

(1997 Code, § 10-207)

§ 113.08 REVOCATION OR SUSPENSION.

The Board of Health may enter and inspect, for health and sanitary purposes, any trailer coach parked pursuant to a permit required by § 113.04 at any reasonable time. If upon inspection, it is found the permit holder has violated any provisions of this chapter, the Board of Health may revoke or suspend any such permit and order the trailer coach removed, after notice and proper hearing.

(1997 Code, § 10-208)

§ 113.09 PLUMBING FIXTURES, REQUIRED.

The use of trailer coach plumbing fixtures is prohibited unless such fixtures meet the requirements of §113.35.

(1997 Code, § 10-209)

§ 113.10 REMOVAL OF WHEELS.

Any action toward the removal of wheels from a trailer coach, except for temporary purposes or repair, or other action to attach the trailer coach to the ground by means of posts, piers, foundation or skirting, shall subject the trailer coach to the requirements of the Building Code of the village as well as this chapter.

(1997 Code, § 10-210)

§ 113.11 APPLICABILITY.

No trailer park shall be operated within the village except as provided in this chapter.

(1997 Code, § 10-211) Penalty, see § 113.99

TRAILER PARKS

§ 113.25 PERMIT TO OPERATE.

No person shall construct or operate a trailer park within the village without first securing a permit therefor.

(1997 Code, § 10-212) Penalty, see § 113.99

§ 113.26 PERMIT APPLICATION; ACCOMPANYING INFORMATION AND MATERIAL.

(A) Any applicant for a permit to operate a trailer park shall agree in his or her application that a responsible attendant shall be in charge of the trailer park at all times. At the time of application, the names of the attendants to be in active charge of the proposed trailer park and their hours of duty shall be set forth. Any changes after the permit is granted shall be filed with the authority issuing the permit within ten days after the date of change.

(B) With each application, a park plan indicating the information required in §113.31 shall be submitted to the Village Clerk for inspection and approval. The application shall include the name and address of the applicant and a legal description and complete plan of the proposed park, containing the information required by § 113.31.

(1997 Code, § 10-213)

§ 113.27 PERMIT; ISSUANCE; FEE; EXPIRATION.

The permit for a trailer park required by this chapter shall be obtained from the Village Clerk at a fee of \$10 and shall be for one year. No part of such fee shall be returned if the occupancy is terminated at any time before the expiration of the year for which the permit is issued.

(1997 Code, § 10-214)

§ 113.28 DISPLAY OF PERMIT.

Every permit for a trailer park shall be conspicuously displayed at all times.

(1997 Code, § 10-215) Penalty, see § 113.99

§ 113.29 RENEWAL.

(A) Applications for renewal of trailer park permits may be made within 30 days prior to the expiration thereof at a fee of \$10 for one year.

(B) Before any trailer park permit will be renewed, the Village Clerk /Utilities Superintendent will make an inspection of such park to determine that the park is in compliance with this chapter.

(1997 Code, § 10-216)

§ 113.30 REVOCATION OR SUSPENSION.

(A) The Board of Health may enter and inspect for health and sanitation purposes, any facility holding a permit under this chapter, at any reasonable time.

(B) If, upon inspection, it is found that the permit holder has violated any provisions of this chapter, the Board of Health may revoke or suspend any such permit and order the trailer park closed, after notice and proper hearing.

(1997 Code, § 10-217)

§ 113.31 PARK PLAN.

The park plan of a trailer park shall provide a legal description and map clearly setting out the following information:

(A) The extent and area to be used for park purposes;

(B) Driveways at entrance and exits, roadways and walkways;

(C) The location of sites for trailer coaches;

(D) The location and number of proposed sanitary conveniences, including proposed toilets, washrooms, laundries, laundry drying space and utility rooms;

(E) The method and plan of garbage disposal;

(F) The method and plan of sewage disposal;

(G) The plan of water supply;

(H) The plan of electric lighting; and

(I) Incinerator and burning space.

(1997 Code, § 10-218) Penalty, see § 113.99

§ 113.32 SITE, LOCATION AND ARRANGEMENT REQUIREMENTS.

(A) Every trailer park shall be located on a well drained site suitable for the purpose; shall have an entrance and exit well marked and easily controlled and supervised; and walkways to the various buildings shall be surfaced and adequately lighted.

(B) Mobile home spaces shall be provided, consisting of a minimum of 4,000 square feet for each space and which shall be clearly defined and marked.

(C) There shall be no additions made to mobile homes except those additions which shall not be in conflict with any of the provisions of this section.

(D) Mobile homes shall be harbored on each space so there shall be at least a 20-foot clearance between mobile homes; provided, that with respect to mobile homes parked end to end, the end to end clearance may be less than 20 feet but not less than 15 feet. No mobile home shall be located closer than 25 feet from any building within the mobile home park or from any property line bounding the mobile home park. No mobile home shall be located closer than ten feet from the curblin of an interior roadway.

(E) No mobile home shall have direct access to a public right-of-way. Off-street or off-roadway parking spaces shall be maintained on each mobile home space at a minimum ratio of two car parking spaces for each mobile home space. All mobile home spaces shall abut upon a private roadway at least 20 feet in width. No parking shall be permitted on any such roadway which is less than 30 feet in width. All such roadways shall have unobstructed access to a public street or highway; provided, that the sole vehicular access shall not be an alley and that all dead end roadways shall include adequate vehicular turning space or cul-de-sac.

(F) Adequate space shall be provided to afford sufficient room for burning space and incinerator space.

(1997 Code, § 10-219) (Ord. 182, passed 1-8-1985) Penalty, see §113.99

§ 113.33 WATER SUPPLY.

A sufficient supply of pure healthful drinking water, approved by the State Department of Health, not more than 300 feet from any trailer coach, shall be provided in convenient locations in each trailer park. No common drinking vessel shall be provided. Waste from this supply shall be emptied into a drain connected to an approved disposal system. An abundant supply of hot water shall be provided at all times for bathing, washing and laundry facilities. There shall be no drinking water in toilet compartments.

(1997 Code, § 10-220) Penalty, see § 113.99

§ 113.34 SANITARY FACILITIES.

(A) Each trailer park shall have provided flush toilets in conveniently located buildings not more than 300 feet from any trailer coach. The buildings shall be well lighted at all times, ventilated with screened openings and constructed of moisture proof material permitting satisfactory cleaning. The floors shall be concrete or similar material, slightly pitched to a floor drain.

(B) Toilets shall be enclosed in separate compartments, with fly doors and shall have a minimum width of two feet two inches. Toilets shall be provided for each sex in the ratio of one toilet for every 15 females and one toilet for every 25 males. In addition every male toilet room shall have one urinal for each 25 males, but in no case shall any male toilet room be without one urinal.

(C) Toilet rooms shall contain one lavatory with hot and cold running water for each five toilets, but in every case not less than one lavatory with hot and cold running water in every toilet room.

(D) The accommodations required by this section shall be based on the total park capacity according to the accepted plans, and shall be computed on the basis of a minimum of three persons to each trailer coach, with the sexes assumed to be equal in number.

(E) Separate bathing facilities for each sex shall be provided for each trailer park, not more than 300 feet from the most remote trailer coach. Each section shall contain one shower for each ten families, at least three feet square, with dressing compartments of ten square feet. If no local means of collection of the trailer coach waste is provided, then slop sinks shall be provided, properly connected to the sewerage system at a maximum distance of not more than 100 feet from any trailer coach.

(1997 Code, § 10-221) Penalty, see § 113.99

§ 113.35 SEWAGE AND REFUSE DISPOSAL.

(A) Waste from showers, toilets, slop sinks and laundries in a trailer park shall be wasted into a public sewer system in such a manner as approved by the State Department of Health, or into a private sewer and disposal plant or septic tank system where sanitary sewer service is not available, approved by the same Department.

(B) All kitchen sinks, wash basins or lavatories and bath or shower tubs in any trailer coach located in any trailer park shall empty into an approved receptacle or disposal system.

(C) Toilets and water closets not connected with an approved disposal system shall not be used and no person shall use or permit the use of such fixtures.

(1997 Code, § 10-222) Penalty, see § 113.99

§ 113.36 GARBAGE, TRASH RECEPTACLES.

Each trailer park shall have provided supervision and equipment sufficient to prevent littering the ground with rubbish and debris. Fly-tight metal depositories with tight fitting covers shall be conveniently located not farther than 300 feet from any

trailer coach. Depositories shall be kept in a sanitary condition at all times.

(1997 Code, § 10-223) Penalty, see § 113.99

§ 113.37 PLUMBING AND ELECTRICAL WORK.

(A) All electrical distribution systems, plumbing systems and telephone service systems to each mobile home space, except outlets and risers, shall be underground. Each mobile home space shall be provided with a 115-volt and 230-volt service with a minimum of 100-ampere per individual service outlet.

(B) All electrical work shall be in conformity with the Electric Code of the village.

(1997 Code, § 10-224) (Ord. 182, passed 1-8-1985) Penalty, see § 113.99

§ 113.38 DUTIES OF ATTENDANTS.

Every trailer park attendant shall supervise the park and, together with the permittee, shall be responsible for any violations of the provisions of this chapter which occurs in the operation of such trailer park.

(1997 Code, § 10-225) Penalty, see § 113.99

§ 113.39 REGISTRATION OF OCCUPANTS.

(A) Each trailer park shall keep a record of all guests, noting the following information:

- (1) The name and address of each occupant;
- (2) The license numbers of all units; and
- (3) The state issuing such licenses.

(B) The trailer park shall keep a copy of the registry available for inspection at any time by any authorized person, and shall not destroy any registry until the expiration of 12 months following the date of registration.

(1997 Code, § 10-226) Penalty, see § 113.99

§ 113.40 COMMUNICABLE DISEASES, NOTIFICATION.

It shall be the duty of the park attendant of a trailer park to notify immediately the Village Board of Health of any communicable disease in such park.

(1997 Code, § 10-227) Penalty, see § 113.99

§ 113.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) 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.

(1997 Code, § 10-801) (Ord. 00-12, passed 6-13-2000)

Statutory reference:

Related provisions, see Neb. RS 17-207, 17-505, 18-1720, 18-1722

CHAPTER 114: OCCUPATION TAXES

Section

- 114.01 Collection date
- 114.02 Certificates
- 114.03 Failure to pay
- 114.04 Amounts
- 114.05 Levies authorized

§ 114.01 COLLECTION DATE.

All occupation taxes shall be due, and payable on May 1 of each year, except in the event that the said tax is levied daily, and upon the payment thereof by any person or persons to the Village Clerk, the said Clerk shall give a receipt, properly dated, and specifying the person paying the said tax, and the amount paid. The revenue collected shall then be immediately deposited into the General Fund by the Municipal Treasurer. The Municipal Treasurer shall keep an accurate account of all revenue turned over to him or her. All forms, and receipts herein mentioned shall be issued in duplicate. One copy shall then be kept by each party in the transaction.

(1997 Code, § 10-402)

Statutory reference:

Related provisions, see Neb. RS 17-525

§ 114.02 CERTIFICATES.

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.

(1997 Code, § 10-403)

Statutory reference:

Related provisions, see Neb. RS 17-525

§ 114.03 FAILURE TO PAY.

(A) If any person, company or corporation fails, or neglects to pay the occupation taxes as provided herein on the day it becomes due, and payable, the municipality shall then proceed by civil suit to collect the amount due.

(B) All delinquent taxes shall bear interest at the rate of 1% per month until paid.

(1997 Code, § 10-404)

Statutory reference:

Related provisions, see Neb. RS 17-525

§ 114.04 AMOUNTS.

For the purpose of raising revenue, an occupation tax is hereby levied on the following businesses:

Retail Liquor Licenses	
Class A - Beer Only, except for craft breweries, for consumption on the premises	\$50/year
Class B - Beer Only, except for craft breweries, for consumption off the premises, sales in the original packages only	\$50/year
Class C - Alcoholic Liquor, for consumption on the premises and off the premises, sales in original packages only, except for farm winery or craft brewery sales outlets	\$200/year
Class D - Alcoholic Liquor, including beer, for consumption off the premises, sales in the original packages only, except for farm winery and craft brewery sales outlets, and except as provided in Neb. RS 53-123.04, Subd. (2)	\$150/year
Class I - Alcoholic Liquor, for consumption on the premises, except for farm winery or craft brewery sales outlets	\$150/year

(1997 Code, § 10-405) (Ord. 200, passed 6-9-1987; Ord. 19-03, passed 11-11-2003; Ord. 07-05, passed 2-7-2005)

§ 114.05 LEVIES AUTHORIZED.

(A) The village shall have power to raise revenue by levying and collecting a license tax on any occupation or business within the limits of the village and regulate the same by ordinance. Any occupation tax imposed pursuant to this section shall make a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing such tax, except that no occupation tax shall be imposed on any transaction which is subject to tax under Neb. RS 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602 or 77-4008 or which is exempt from tax under Neb. RS 77-2704.24. The occupation tax shall be imposed in the manner provided in Neb. RS 18-1208, except that Neb. RS 18-1208 does not apply

to an occupation tax subject to Neb. RS 86-704. All such taxes shall be uniform in respect to the classes upon which they are imposed. All scientific and literary lectures and entertainments shall be exempt from such taxation, as well as concerts and other musical entertainments given exclusively by the citizens of the village.

(B) The Board of Trustees shall have authority, by ordinance, to impose an occupation tax of not more than \$5 per annum on each fire insurance corporation, company or association, doing business in the village, for the use, support and benefit of volunteer fire departments, regularly organized under the laws of the state regulating the same. The Village Clerk shall collect with diligence the occupation tax so imposed. Upon the receipt of the tax the Clerk shall pay over the proceeds thereof to the Village Treasurer who shall credit the same to a fund to be known as special occupation tax fund for benefit of the volunteer fire department. Upon proper claim filed by the Chief of the Fire Department and allowed by the Board, the Treasurer shall pay over the proceeds of the tax in the fund from time to time for the use of the Fire Department, as hereinbefore provided.

(C) 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 State Liquor Control Act, being Neb. RS 53-101 through 53-1,122 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.

(1997 Code, § 10-406) (Ord. 15-01, passed 4-14-2015)

Statutory reference:

Occupation taxes generating more than \$300,000; imposition or increase; election required, see Neb. RS 18-1208

Related provisions, see Neb. RS 17-525, 53-132

§ 114.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) 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.

(1997 Code, § 10-801) (Ord. 00-12, passed 6-13-2000)

Statutory reference:

Related provisions, see Neb. RS 17-207, 17-505, 18-1720, 18-1722

TITLE XIII: GENERAL OFFENSES

Chapter

130. PROPERTY OFFENSES

131. OFFENSES AGAINST PUBLIC ORDER

132. OFFENSES AGAINST PUBLIC JUSTICE AND ADMINISTRATION

133. OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

134. OFFENSES AGAINST PUBLIC MORALS

CHAPTER 130: PROPERTY OFFENSES

Section

130.01 Criminal mischief

130.02 Criminal trespass

130.03 Electrical interference

130.04 Injury to trees

130.05 Posting

§ 130.01 CRIMINAL MISCHIEF.

(A) A person commits criminal mischief if he or she:

- (1) Damages property of another intentionally or recklessly; or
- (2) Intentionally tampers with property of another so as to endanger person or property; or
- (3) Intentionally or maliciously causes another to suffer pecuniary loss by deception or threat.

(B) Criminal mischief is an offense:

- (1) If the actor intentionally or maliciously causes pecuniary loss of \$500 or more but less than \$5,000; or
- (2) If the actor intentionally, maliciously, or recklessly causes pecuniary loss in an amount of less than \$500 or if his or her action results in no pecuniary loss.

(Neb. RS 28-519) Penalty, see § 10.99

§ 130.02 CRIMINAL TRESPASS.

(A) A person commits first degree criminal trespass if:

- (1) He or she enters or secretly remains in any building or occupied structure, or any separately secured or occupied portion thereof, knowing that he or she is not licensed or privileged to do so; or
- (2) He or she enters or remains in or on a public power infrastructure facility knowing that he or she does not have the consent of a person who has the right to give consent to be in or on the facility.

(B) First degree criminal trespass is a Class I misdemeanor.

(C) For purposes of this section, **PUBLIC POWER INFRASTRUCTURE FACILITY** means a power plant, an electrical station or substation, or any other facility which is used by a public power supplier as defined in Neb. RS 70-2103 to support the generation, transmission, or distribution of electricity and which is surrounded by a fence or is otherwise enclosed.

(Neb. RS 28-520)

(D) (1) A person commits second degree criminal trespass if, knowing that he or she is not licensed or privileged to do so, to enter or remain in any place as to which notice against trespass is given by:

- (a) Actual communication to the actor; or
- (b) Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or
- (c) Fencing or other enclosure manifestly designed to exclude intruders, except as otherwise provided in division (A) of this section.

(2) Second degree criminal trespass is a Class III misdemeanor, except as provided for in division (D)(3) of this section.

(3) Second degree criminal trespass is a Class II misdemeanor if the offender defies an order to leave personally communicated to him or her by the owner of the premises or other authorized person.

(Neb. RS 28-521) Penalty, see § 10.99

§ 130.03 ELECTRICAL INTERFERENCE.

Any person operating, or causing to be operated, any motor, sign, or other electrical apparatus that is connected with the light and power system shall equip the apparatus with proper filtering attachments to eliminate interference, provided that the provisions herein shall not apply to the use of necessary medical equipment or apparatus where electrical interference cannot be reasonably and safely eliminated. Any person who so operates or causes to be operated any such electrical apparatus that interferes habitually with radio and television reception shall be deemed to be guilty of an offense.

Penalty, see § 10.99

Statutory reference:

Provisions on nuisances, see Neb. RS 18-1720 and 28-1321

§ 130.04 INJURY TO TREES.

It shall be unlawful for any person purposely or carelessly and without lawful authority to cut down, carry away, injure, break down, or destroy any fruit, ornamental, shade, or other tree or trees standing or growing on any land belonging to another person or persons or on any public land in the corporate limits. 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 Board of Trustees to do so, and the written permit of the Board of Trustees in accordance with their decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.

Penalty, see § 10.99

§ 130.05 POSTING.

It shall be unlawful for any person to use the streets, sidewalks, or public grounds of the village for signs, signposts, or the posting of handbills or advertisements without written permission of the Board of Trustees.

Penalty, see § 10.99

CHAPTER 131: OFFENSES AGAINST PUBLIC ORDER

Section

- 131.01 Disorderly conduct
- 131.02 Street games
- 131.03 Obstruction of public ways
- 131.04 Obstructing water flow
- 131.05 Disturbing the peace

§ 131.01 DISORDERLY CONDUCT.

It shall be unlawful for any person to engage in conduct or behavior which disturbs the peace and good order of the village by clamor or noise, intoxication, drunkenness, fighting, or using obscene or profane language in the streets or other public places or otherwise violating the public peace by indecent or disorderly conduct or lewd or lascivious behavior.

Penalty, see § 10.99

Statutory reference:

Authority to regulate noise, riots, and routs, see Neb. RS 17-556

§ 131.02 STREET GAMES.

It shall be unlawful for any person to play catch, bat a ball, or kick or throw a football, or to engage in any exercise or sport, upon the village streets and sidewalks. Nothing herein shall be construed to prohibit or prevent the Board of Trustees from ordering from time to time certain streets and public places blocked off for the purpose of providing a safe area to engage in such exercise and sport.

Penalty, see § 10.99

Statutory reference:

Additional authority, see Neb. RS 17-555 and 17-557

§ 131.03 OBSTRUCTION OF PUBLIC WAYS.

It shall be unlawful for any person to erect, maintain, or suffer to remain on any street or public sidewalk a stand, wagon, display, or other obstruction inconvenient to or inconsistent with the public use of the same.

Penalty, see § 10.99

Statutory reference:

Additional authority, see Neb. RS 17-555 and 17-557

Penalties for injuring or obstructing roads, see Neb. RS 39-301 and 39-302

§ 131.04 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.

Penalty, see § 10.99

Statutory reference:

Authority to abate nuisances, see Neb. RS 17-555

Authority to prevent water obstruction, see Neb. RS 17-920

§ 131.05 DISTURBING THE PEACE.

It shall be unlawful for any person intentionally to disturb the peace and quiet of any person, family, or neighborhood.

CHAPTER 132: OFFENSES AGAINST PUBLIC JUSTICE AND ADMINISTRATION

Section

- 132.01 Impersonating a public servant
- 132.02 Impersonating a peace officer
- 132.03 Refusing to aid a peace officer
- 132.04 Resisting arrest without the use of a deadly or dangerous weapon
- 132.05 Obstructing a peace officer
- 132.06 Interfering with firefighter
- 132.07 False reporting

§ 132.01 IMPERSONATING A PUBLIC SERVANT.

It shall be unlawful for any person falsely to 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. RS 28-609) Penalty, see § 10.99

§ 132.02 IMPERSONATING A PEACE 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. RS 28-610) Penalty, see § 10.99

§ 132.03 REFUSING TO AID A PEACE OFFICER.

It shall be unlawful for any person, upon a request by a person known to him or her to be a peace officer, unreasonably to refuse or fail to aid the peace officer in:

- (A) Apprehending any person charged with or convicted of any offense against any of the laws of this state or village; or
- (B) Securing the offender when apprehended; or
- (C) Conveying the offender to the jail of the county or this village.

(Neb. RS 28-903) Penalty, see § 10.99

§ 132.04 RESISTING ARREST WITHOUT THE USE OF A DEADLY OR DANGEROUS WEAPON.

(A) It shall be unlawful for any person, without the use of a deadly or dangerous weapon, while intentionally preventing or attempting to prevent a peace officer, acting under color of his or her official authority, from effecting an arrest of the actor or another, to:

- (1) Use or threaten to use physical force or violence against the peace officer or another;
- (2) Use any other means which creates a substantial risk of causing physical injury to the peace officer or another; or
- (3) Employ means requiring substantial force to overcome resistance to effecting the arrest.

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

(Neb. RS 28-904) Penalty, see § 10.99

§ 132.05 OBSTRUCTING A PEACE OFFICER.

(A) A person commits the offense of obstructing a peace officer when, by using or threatening to use violence, force, physical interference, or obstacle, he or she intentionally obstructs, impairs, or hinders:

- (1) The enforcement of the penal law or the preservation of the peace by a peace officer or judge acting under color of his or her official authority; or
- (2) A police animal assisting a peace officer acting pursuant to the peace officer's official authority.

(B) For purposes of this section, **POLICE ANIMAL** means a horse or dog owned or controlled by the state or any county, city, or village for the purpose of assisting a peace officer acting pursuant to his or her official authority.

(Neb. RS 28-906) Penalty, see § 10.99

§ 132.06 INTERFERING WITH FIREFIGHTER.

A person commits the offense of interfering with a firefighter if at any time and place where any firefighter is discharging or attempting to discharge any official duties, the person willfully:

- (A) Resists or interferes with the lawful efforts of any firefighter in the discharge or attempt to discharge an official duty;
- (B) Disobeys the lawful orders given by any firefighter while performing his or her duties;
- (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 or she has no legal right or obligation to protect or control, not to assist in extinguishing a fire.

(Neb. RS 28-908) Penalty, see § 10.99

§ 132.07 FALSE REPORTING.

(A) It shall be unlawful for any person to:

- (1) Furnish material information he or she knows to be false to any peace officer or other official with the intent to instigate an investigation of an alleged criminal matter or impede the investigation of an actual criminal matter;
- (2) Furnish information he or she knows to be false alleging the existence of the need for the assistance of an emergency medical service or out-of-hospital emergency care provider or an emergency in which human life or property are in jeopardy to any hospital, emergency medical service, or other person or governmental agency;
- (3) Furnish any information, or cause information to be furnished or conveyed by electric, electronic, telephonic, or mechanical means, knowing the same to be false concerning the need for assistance of a fire department or any personnel or equipment of such a department;
- (4) Furnish any information he or she knows to be false concerning the location of any explosive in any building or other property to any person; or
- (5) Furnish material information he or she knows to be false to any governmental department or agency with the intent to instigate an investigation or to impede an ongoing investigation and which actually results in causing or impeding the investigation.

(B) A person who violates this section commits the offense of false reporting.

(Neb. RS 28-907) Penalty, see § 10.99

CHAPTER 133: OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

Section

General Provisions

- 133.01 Maintaining a nuisance
- 133.02 Appliances in yard
- 133.03 Putting carcass or filthy substance into well, spring, brook, or stream
- 133.04 Prohibited fences
- 133.05 Littering
- 133.06 Raising or producing stagnant water

Substance Offenses

- 133.20 Use of tobacco by persons under the age of 19
- 133.21 Sale of tobacco to persons under the age of 19
- 133.22 Misrepresentation by person under the age of 19 to obtain tobacco
- 133.23 Misrepresentation by minor to obtain alcohol
- 133.24 Minors; prohibited acts involving alcoholic liquor
- 133.25 Drinking on public property; open beverage container

Motor Vehicle and Highway Offenses

133.40 Abandoned automobiles

133.41 Unlicensed or inoperable vehicles

Weapons Offenses

133.60 Discharge of firearms

133.61 Slingshots, air guns, BB guns

GENERAL PROVISIONS

§ 133.01 MAINTAINING A NUISANCE.

(A) A person commits the offense of maintaining a nuisance if he or she erects, keeps up or continues, and maintains any nuisance to the injury of any part of the citizens of this village.

(B) The erecting, continuing, using, or maintaining of any building, structure, or other place for the exercise of any trade, employment, manufacture, or other business which, by occasioning noxious exhalations, noisome or offensive smells, becomes injurious and dangerous to the health, comfort, or property of individuals or the public; the obstructing or impeding, without legal authority, of the passage of any navigable river, harbor, or collection of water; or the corrupting or rendering unwholesome or impure of any watercourse, stream, or water; or unlawfully diverting any such watercourse from its natural course or state to the injury or prejudice of others; and the obstructing or encumbering by fences, building, structures or otherwise of any of the public highways or streets or alleys of the village, shall be deemed nuisances.

(C) A person guilty of erecting, continuing, using, maintaining, or causing any such nuisance shall be guilty of a violation of this section and in every such case the offense shall be construed and held to have been committed in any county whose inhabitants are or have been injured or aggrieved thereby.

(D) The court, in case of conviction of such offense, shall order every such nuisance to be abated or removed.

(Neb. RS 28-1321) Penalty, see § 10.99

§ 133.02 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 the person first removes all doors and makes the same reasonably safe.

Penalty, see § 10.99

Statutory reference:

Authority to prohibit nuisances within zoning jurisdiction, see Neb. RS 18-1720

§ 133.03 PUTTING CARCASS OR FILTHY SUBSTANCE INTO WELL, SPRING, BROOK, OR STREAM.

Whoever shall put any dead animal, carcass or part thereof, or other filthy substance into any well, or into any spring, brook, or branch of running water, of which use is made for domestic purposes, shall be guilty of an offense.

(Neb. RS 28-1304) Penalty, see § 10.99

§ 133.04 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 the fence abuts a public sidewalk, street, or alley.

Penalty, see § 10.99

Statutory reference:

Restrictions on barbed wire fences, see Neb. RS 39-307

§ 133.05 LITTERING.

(A) Any person who deposits, throws, discards, or otherwise disposes of any litter on any public or private property or in any waters commits the offense of littering unless:

(1) The property is an area designated by law for the disposal of that type of material and the person is authorized by the proper public authority to so use the property; or

(2) The litter is placed in a receptacle or container installed on the property for that purpose.

(B) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a

different meaning.

LITTER. Includes all waste material susceptible of being dropped, deposited, discarded, or otherwise disposed of by any person upon any property in the state, but does not include wastes of primary processes of farming or manufacturing.

WASTE MATERIAL. Any material appearing in a place or in a context not associated with that material's function or origin.

(C) Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle or watercraft in violation of this section, the operator of the motor vehicle or watercraft commits the offense of littering.

(Neb. RS 28-523) Penalty, see § 10.99

§ 133.06 RAISING OR PRODUCING STAGNANT WATER.

Whoever shall build, erect, continue, or keep up any dam or other obstruction in any river or stream of water in the village and thereby raise an artificial pond, or produce stagnant waters, which shall be manifestly injurious to the public health and safety shall be guilty of an offense and the court shall, moreover, order every such nuisance to be abated or removed.

(Neb. RS 28-1303) Penalty, see § 10.99

SUBSTANCE OFFENSES

§ 133.20 USE OF TOBACCO BY PERSONS UNDER THE AGE OF 19.

Whoever, being a person under the age of 19 years, shall smoke cigarettes or cigars, use electronic nicotine delivery systems or alternative nicotine products, or use tobacco in any form whatever, in this village, shall be guilty of an offense. Any person charged with a violation of this section may be free from prosecution if he or she furnishes evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars, electronic nicotine delivery systems, alternative nicotine products, or tobacco.

(Neb. RS 28-1418) Penalty, see § 10.99

§ 133.21 SALE OF TOBACCO TO PERSONS UNDER THE AGE OF 19.

Whoever shall sell, give, or furnish in any way any tobacco in any form whatever, or any cigarettes or cigarette paper, electronic nicotine delivery systems, or alternative nicotine products, to any person under 19 years of age is guilty of an offense.

(Neb. RS 28-1419) Penalty, see § 10.99

§ 133.22 MISREPRESENTATION BY PERSON UNDER THE AGE OF 19 TO OBTAIN TOBACCO.

Any person under the age of 19 years who obtains cigars, tobacco, cigarettes, or cigarette material, electronic nicotine delivery systems, or alternative nicotine products from a licensee hereunder by representing that he or she is of the age of 19 years or over, is guilty of an offense.

(Neb. RS 28-1427) Penalty, see § 10.99

§ 133.23 MISREPRESENTATION BY MINOR TO OBTAIN ALCOHOL.

No minor, as defined by Neb. RS 53-103.23, shall 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. RS 53-180.01) Penalty, see § 10.99

Statutory reference:

Penalty for manufacturing false identification intended for minors, see Neb. RS 53-180.05

§ 133.24 MINORS; PROHIBITED ACTS INVOLVING ALCOHOLIC LIQUOR.

(A) For purposes of this section, the definitions found in Neb. RS 53-103.01 through 53-103.42 shall apply, including, but not limited to, the definitions of the terms "alcoholic liquor," "consume," "minor," "sale," and "to sell."

(B) Except as otherwise provided in the state statutes, no minor may sell, dispense, consume, or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways, upon property owned by the state or any subdivision thereof, or inside any vehicle while in or on any other place, including, but not limited to, the public streets, alleys, roads, or highways, or upon property owned by the state or any subdivision thereof, except that a minor may consume, possess, or have physical control of alcoholic liquor as a part of a bona fide religious rite, ritual, or ceremony or in his or her permanent place of residence.

(C) It shall be unlawful for any person under 21 years of age to transport, consume, or knowingly possess or have under his or her control beer or other alcoholic liquor in or transported by any motor vehicle.

(Neb. RS 53-180.02) Penalty, see § 10.99

Statutory reference:

Minor Alcoholic Liquor Liability Act, see Neb. RS 53-401 through 53-409

§ 133.25 DRINKING ON PUBLIC PROPERTY; OPEN BEVERAGE CONTAINER.

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALCOHOLIC BEVERAGE.

(a) Beer, ale, porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description, containing 0.5% 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 0.5% 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.

(d) **ALCOHOLIC BEVERAGE** does not include trace amounts not readily consumable as a beverage.

HIGHWAY. A road or street including the entire area within the right-of-way.

LIMOUSINE. A luxury vehicle used to provide prearranged passenger transportation on a dedicated basis at a premium fare that has a seating capacity of at least five and no more than 14 persons behind the driver with a physical partition separating the driver seat from the passenger compartment. **LIMOUSINE** does not include taxicabs, hotel or airport buses or shuttles, or buses.

OPEN ALCOHOLIC BEVERAGE CONTAINER. Except as provided in Neb. RS 53-123.04(3) and 53-123.11(1)(c), any bottle, can, or other receptacle:

(a) That contains any amount of alcoholic beverage; and

(b) (1) That is open or has a broken seal; or

(2) The contents of which are partially removed.

PASSENGER AREA. 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 the area. **PASSENGER AREA** does not include the area behind the last upright seat of the 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.

(B) Except as otherwise provided in this section, 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 § 111.03 or division (D) of this section, 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) This section does not apply to persons who are passengers of, but not drivers of, a limousine or bus being used in a charter or special party service as defined by rules and regulations adopted and promulgated by the state Public Service Commission and subject to Neb. Admin. Code, Chapter 75, Article 3. Such passengers may possess open alcoholic beverage containers and may consume alcoholic beverages while such limousine or bus is in a public parking area or on any highway in this village if:

(1) The driver of the limousine or bus is prohibited from consuming alcoholic liquor; and

(2) Alcoholic liquor is not present in any area that is readily accessible to the driver while in the driver's seat, including any compartments in such area.

(Neb. RS 60-6,211.08)

Penalty, see § 10.99

MOTOR VEHICLE AND HIGHWAY OFFENSES

§ 133.40 ABANDONED AUTOMOBILES.

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED VEHICLE.

(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 village law enforcement agency after the agency has sent a letter to the last-registered owner under division (D) of this section; or

(6) If removed from private property by the village pursuant to a village ordinance or this code.

(b) An all-terrain vehicle or minibike is an **ABANDONED VEHICLE**:

(1) If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;

(2) 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;

(3) 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;

(4) If left for more than 30 days in the custody of a village law enforcement agency after the agency has sent a letter to the last-registered owner under division (D) of this section; or

(5) If removed from private property by the village pursuant to a village ordinance or this code.

(c) A **MOBILE HOME** is an abandoned vehicle if left in place on private property for more than 30 days after a local governmental unit, pursuant to an ordinance or resolution, has sent a certified letter to each of the last-registered owners and posted a notice on the mobile home, stating that the mobile home is subject to sale or auction or vesting of title as set forth in Neb. RS 60-1903.

(d) No motor vehicle subject to forfeiture under Neb. RS 28-431 shall be an **ABANDONED VEHICLE** under this division (A).

MOBILE HOME. A movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit, and shall include a manufactured home as defined in Neb. RS 71-4603. **MOBILE HOME** does not include a mobile home or manufactured home for which an affidavit of affixture has been recorded pursuant to Neb. RS 60-169.

PRIVATE PROPERTY. Any privately owned property which is not included within the definition of public property.

PUBLIC PROPERTY. Any public right-of-way, street, highway, alley, or park or other state, county, or village-owned property.

(Neb. RS 60-1901)

(B) 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 Neb. RS 60-376 affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of \$250 or less, title shall immediately vest in the village. Any certificate of title issued under this division to the village shall be issued at no cost to the village.

(Neb. RS 60-1902)

(C) (1) Except for vehicles governed by division (B) of this section, the village shall make an inquiry concerning the last-registered owner of such vehicle as follows:

(a) Abandoned vehicle with license plates affixed, to the jurisdiction which issued such license plates; or

(b) Abandoned vehicle with no license plates affixed, to the Department of Motor Vehicles.

(2) The village 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:

(a) It will be sold or will be offered at public auction after five days from the date such notice was mailed; or

(b) Title will vest in the village 30 days after the date such notice was mailed.

(3) If the agency described in division (C)(1)(a) or (b) of this section also notifies the village 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.

(4) Title to an abandoned vehicle, if unclaimed, shall vest in the village:

(a) Five days after the date the notice is mailed if the vehicle will be sold or offered at public auction under division (C)(2)(a) of this section;

(b) Thirty days after the date the notice is mailed if the village will retain the vehicle; or

(c) If the last-registered owner cannot be ascertained, when notice of such fact is received.

(5) After title to the abandoned vehicle vests pursuant to division (C)(4) of this section, the village may retain for use, sell, or auction the abandoned vehicle. If the village has determined that the vehicle should be retained for use, the village shall, at the same time that the notice, if any, is mailed, publish in a newspaper of general circulation in the jurisdiction an announcement that the village intends to retain the abandoned vehicle for its use and that title will vest in the village 30 days after the publication.

(Neb. RS 60-1903)

(D) (1) If a village law enforcement agency has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody, it shall send a certified letter to each of the last-registered owners stating that the vehicle is in the custody of the 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.

(2) This division shall not apply to motor vehicles subject to forfeiture under Neb. RS 28-431.

(3) No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this division (D) 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. RS 60-1903.01)

(E) (1) A law enforcement agency is authorized to remove an abandoned or trespassing vehicle from private property upon the request of the private property owner on whose property the vehicle is located and upon information indicating that the vehicle is an abandoned or trespassing vehicle. After removal, the law enforcement agency with custody of the vehicle shall follow the procedures in Neb. RS 60-1902 and 60-1903.

(2) A law enforcement agency is authorized to contact a private towing service in order to remove an abandoned or trespassing vehicle from private property upon the request of the private property owner on whose property the vehicle is located and upon information indicating that the vehicle is an abandoned or trespassing vehicle. A vehicle towed away under this subsection is subject to Neb. RS 52-601.01 to 52-605 and 60-2410 by the private towing service which towed the vehicle.

(3) A private property owner is authorized to remove or cause the removal of an abandoned or trespassing vehicle from such property and may contact a private towing service for such removal. A private towing service that tows the vehicle shall notify, within 24 hours, the designated law enforcement agency in the jurisdiction from which the vehicle is removed and provide the registration plate number, the vehicle identification number, if available, the make, model, and color of the vehicle, and the name of the private towing service and the location, if applicable, where the private towing service is storing the vehicle. A vehicle towed away under this subsection is subject to Neb. RS 52-601.01 to 52-605 and 60-2410 by the private towing service that towed the vehicle.

(4) For purposes of this section, a trespassing vehicle is a vehicle that is parked without permission on private property that is not typically made available for public parking.

(Neb. RS 60-1903.02)

(F) If a state agency caused an abandoned vehicle described in division (A)(a)(5) or (A)(b)(4) of this section to be removed from public property in this village, the state agency shall be entitled to custody of the vehicle. If a state agency caused an abandoned vehicle described in division (A)(a)(1), (2), (3), or (4) or (A)(b)(1), (2), or (3) of this section to be removed from public property in this village, the state agency shall deliver the vehicle to the village which shall have custody.

(Neb. RS 60-1904)

(G) Any proceeds from the sale of an abandoned vehicle in the village's custody less any expenses incurred by the village shall be held by the village 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. RS 60-1905)

(H) Neither the owner, owner's agent, owner's employee, 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, while in the possession of a private towing service,

or as a result of any subsequent disposition.

(Neb. RS 60-1906)

(I) No person shall cause any vehicle to be an abandoned vehicle as described in division (A)(a)(1), (2), (3), or (4) or (A)(b)(1), (2), or (3) of this section.

(Neb. RS 60-1907)

(J) No person other than one authorized by the village or appropriate state agency 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 division shall be guilty of an offense.

(Neb. RS 60-1908)

(K) The last-registered owner of an abandoned vehicle shall be liable to the village for the costs of removal and storage of such vehicle.

(Neb. RS 60-1909)

(L) Any person violating the provisions of this section shall be guilty of an offense.

Penalty, see § 10.99

Statutory reference:

Motor Vehicle Registration Act, see Neb. RS 60-301

§ 133.41 UNLICENSED OR INOPERABLE VEHICLES.

(A) No person in charge or control of any property within the village, other than village property, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, inoperable, wrecked, junked, or discarded vehicle to remain on that property longer than 30 days.

(B) No unlicensed vehicle shall be permitted to remain on any private or public property for any length of time, provided that this section shall not apply to the following:

(1) A vehicle bearing a valid "In Transit" sticker;

(2) A vehicle in an enclosed building;

(3) A vehicle on the premises of a business enterprise operated in a lawful place and manner when the vehicle is necessary to the lawful operation of the business; or

(4) A vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the village.

(C) Any vehicle allowed to remain on property in violation of this section shall constitute a nuisance and shall be abated, and any person violating this section shall be guilty of an offense.

Penalty, see § 10.99

Statutory reference:

"In Transit" stickers, see Neb. RS 60-376

WEAPONS OFFENSES

§ 133.60 DISCHARGE OF FIREARMS.

It shall be unlawful for any person, except an officer of the law in the discharge of official duty, to fire or discharge any gun, pistol, or other fowling piece within the village, except that nothing in this section shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the Board of Trustees.

Penalty, see § 10.99

Statutory reference:

Authority to regulate, see Neb. RS 17-556

§ 133.61 SLINGSHOTS, AIR GUNS, BB GUNS.

It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the village.

Penalty, see § 10.99

Section

- 134.01 Prostitution
- 134.02 Public indecency
- 134.03 Sexual predator residency restrictions
- 134.04 Gambling

§ 134.01 PROSTITUTION.

(A) Except as provided in division (C) of this section, any person who performs, offers, or agrees to perform any act of sexual contact or sexual penetration, as those terms are defined in Neb. RS 28-318, with any person not his or her spouse, in exchange for money or other thing of value, commits the offense of prostitution.

(B) It is an affirmative defense to prosecution under this section that such person was a trafficking victim as defined in Neb. RS 28-830.

(C) If the law enforcement officer determines, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of division (A) of this section is:

(1) A person engaging in those acts as a direct result of being a trafficking victim as defined in Neb. RS 28-830, such person shall be immune from prosecution for a prostitution offense; or

(2) A person under 18 years of age, such person shall be immune from prosecution for a prostitution offense under this section and shall be subject to temporary custody under Neb. RS 43-248 and further disposition under the Nebraska Juvenile Code. A law enforcement officer who takes a person under 18 years of age into custody under this section shall immediately report an allegation of a violation of Neb. RS 28-831 to the Department of Health and Human Services which shall commence an investigation within 24 hours under the Child Protection and Family Safety Act.

(Neb. RS 28-801) Penalty, see § 10.99

§ 134.02 PUBLIC INDECENCY.

(A) A person, 18 years of age or over, commits the offense of public indecency if such person performs or procures, or assists 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:

- (1) An act of sexual penetration as defined in Neb. RS 28-318;
- (2) An exposure of the genitals of the body done with intent to affront or alarm any person; or
- (3) A lewd fondling or caressing of the body of another person of the same or opposite sex.

(B) It shall not be a violation of this section for an individual to breast-feed a child in a public place.

(Neb. RS 28-806) Penalty, see § 10.99

§ 134.03 SEXUAL PREDATOR RESIDENCY RESTRICTIONS.

(A) *Findings and intent.*

(1) The state legislature has found that certain sex offenders present a high risk to commit repeat offenses and has enabled municipalities to restrict such persons' place of residency as provided in the Sexual Predator Residency Restriction Act.

(2) Sex offenders who prey on children and who are high risks to repeat such acts present an extreme threat to public safety. The cost of sex offender victimization to these children and to society at large, while incalculable, is exorbitant.

(3) It is the intent of this section to serve the village's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the village by creating certain areas around locations where children regularly congregate in concentrated numbers where certain sexual predators cannot reside.

(B) *Definitions.* For purposes of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHILD CARE FACILITY. A facility licensed pursuant to the Child Care Licensing Act.

RESIDE. To sleep, live or dwell at a place, which may include more than one location, and may be mobile or transitory.

RESIDENCE. A place where an individual sleeps, lives or dwells, which may include more than one location, and may be mobile or transitory.

SCHOOL. A public, private, denominational or parochial school which meets the requirements for state accreditation or approval.

SEX OFFENDER. An individual who has been convicted of a crime listed in Neb. RS 29-4003 and who is required to

register as a sex offender pursuant to the Sex Offender Registration Act.

SEXUAL PREDATOR. An individual who is required to register under the Sex Offender Registration Act, who has committed an aggravated offense as defined in Neb. RS 29-4001.01, and who has victimized a person 18 years of age or younger.

(C) *Sexual predator residency restrictions; penalties; exceptions.*

(1) *Prohibited location of residence.* It is unlawful for any sexual predator to reside within 500 feet from a school or child care facility.

(2) *Measure of distance.* 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.

(3) *Penalties.* A person who violates this section shall be punished as a misdemeanor as provided generally in the code. The village shall also have such other enforcement remedies and measures as may be available under Nebraska law.

(4) *Exceptions.* This section shall not apply to a sexual predator who:

(a) Resides within a prison or correctional or treatments 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 the location.

(1997 Code, § 6-334) (Ord. 03-06, passed 9-12-2006; Ord. 19-1, passed 8-13-2019)

Penalty, see § 130.99

Statutory reference:

Related provisions, see Neb. RS 29-4003, 29-4013

§ 134.04 GAMBLING.

(A) For the purpose of this section, the definitions found in Neb. RS 28-1101 shall be used.

(B) A person commits the offense of promoting gambling if he or she knowingly:

(1) Advances or profits from any unlawful gambling activity by:

(a) Engaging in bookmaking;

(b) Receiving, in connection with any unlawful gambling scheme or enterprise, any amount of money played in the scheme or enterprise in any one day; or

(c) Betting something of value in an amount of \$500 or more with one or more persons in one day; or

(Neb. RS 28-1102 and 28-1103)

(2) Participates in unlawful gambling as a player by betting less than \$500 in any one day.

(Neb. RS 28-1104)

(C) (1) A person commits the offense of possession of a gambling device if he or she manufactures, sells, transports, places, possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody, or use of any gambling device, knowing that it shall be used in the advancement of unlawful gambling activity.

(2) The owner or operator of a retail establishment who is not a manufacturer, distributor, or seller of mechanical amusement devices as defined under the Mechanical Amusement Device Tax Act, shall have an affirmative defense to possession of a gambling device described in division (C)(1) of this section if the device bears an unexpired mechanical amusement device decal as required by such Act. However, such affirmative defense may be overcome if the owner or operator had actual knowledge that operation of the device constituted unlawful gambling activity at any time such device was operated on the premises of the retail establishment.

(3) Notwithstanding any other provisions of this division, any mechanical game or device classified by the federal government as an illegal gambling device and requiring a federal Gambling Device Tax Stamp as required by the Internal Revenue Service in its administration of 26 U.S.C. 4461 and 4462, amended July 1, 1965, by Public Law 89-44, is hereby declared to be illegal.

(Neb. RS 28-1107)

(D) In any prosecution under this section, it shall be an affirmative defense that the writing, paper, instrument, or article possessed by the defendant was neither used nor intended to be used in the advancement of an unlawful gambling activity.

(Neb. RS 28-1108)

(E) Proof of possession of any gambling device shall be prima facie evidence of possession thereof with knowledge of its contents and character.

(Neb. RS 28-1109)

(F) It shall be no defense to a prosecution under any provision of this section relating to gambling that the gambling is conducted outside this village and is not in violation of the laws of the jurisdiction in which it is conducted.

(Neb. RS 28-1110)

(G) In addition to any other penalty, a sentencing court may order that any money, securities, negotiable instruments, firearms, conveyances, or electronic communication devices as defined in Neb. RS 28-833 or any equipment, components, peripherals, software, hardware, or accessories related to electronic communication devices, or any gambling devices be forfeited as a part of the sentence imposed if it finds by clear and convincing evidence adduced at a separate hearing in the same prosecution, conducted pursuant to Neb. RS 28-1601, that any or all such property was derived from, used, or intended to be used to facilitate a violation of this section.

(Neb. RS 28-1111)

(H) In any prosecution for an offense defined in this section, when the defendant's status as a player constitutes an excusing condition, the fact that the defendant was a player shall constitute an affirmative defense.

(Neb. RS 28-1112)

(I) Nothing in this section shall be construed to:

(1) Apply to or prohibit wagering on the results of horse races by the parimutuel or certificate method when conducted by licensees within the racetrack enclosure at licensed horse race meetings; or

(2) Prohibit or punish the conducting or participating in any bingo, lottery by the sale of pickle cards, lottery, raffle, or gift enterprise when conducted in accordance with the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, or Neb. RS 9-701.

(Neb. RS 28-1113)

(J) In any prosecution under this section in which it is necessary to prove the occurrence of a sporting event, a published report of its occurrence in any daily newspaper, magazine, or other periodically printed publication of general circulation shall be admissible in evidence and shall constitute prima facie evidence of the occurrence of the event.

(Neb. RS 28-1117) Penalty, see §10.99

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS

151. PLANNING: SUBDIVISIONS

CHAPTER 150: BUILDING REGULATIONS

Section

Building Permits

150.01 Building permits

Building Moving

150.15 Building moving; regulations

150.16 Building moving; deposit

Barricades and Lights

150.30 Barricades and lights

Unsafe Buildings

150.45 Definition

150.46 Prohibition

150.47 Determination and notice

- 150.48 Hearing and appeal
- 150.49 Emergency
- 150.50 Special assessments

Building Regulations

- 150.65 Manufactured homes; standards

- 150.99 Penalty

Cross-reference:

Planning; Subdivisions, see Chapter 151

Streets, Sidewalks and Public Ways, see Chapter 93

BUILDING PERMITS

§ 150.01 BUILDING PERMITS.

Any person desiring to commence or proceed to erect, construct, repair, enlarge, demolish or relocate any building or dwelling, 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 for that purpose. 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 shall be checked and examined by the Village Clerk and if they are found to be in conformity with the requirements of this chapter and all other ordinances applicable thereto, the Village Clerk shall issue the said applicant a permit upon the payment of the permit fee set by resolution of the governing body. If special circumstances are involved, the governing body shall examine the application, plans and specifications and if they are in conformity with the aforementioned requirements, the governing body shall authorize the Village Clerk to issue the said 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.

(1997 Code, § 9-101) Penalty, see § 150.99

Statutory reference:

Related provisions, see Neb. RS 17-550, 17-1001

BUILDING MOVING

§ 150.15 BUILDING MOVING; REGULATIONS.

It shall be unlawful for any person, firm or corporation to move any building or structure within the municipality 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 Clerk 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 Law Enforcement for approval of the proposed route over which the said building is to be moved. The Village Clerk shall then issue the said permit; provided, that a good and sufficient corporate surety bond, check or cash in an amount set by motion of the governing body and conditioned upon moving said building without doing damage to any private or municipal property is filed with the Village Clerk prior to the granting of any permit. The governing body shall have the authority to review the said application if special circumstances are involved, and upon their approval to direct the Village Clerk to issue said permit. No moving permit shall be required to move a building that is ten feet wide, or less, and 20 feet long, or less, and when in a position to move, 15 feet high, or less. In the event it will be necessary for any licensed building mover to interfere with the telephone or telegraph 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. Whenever the moving of any building necessitates interference with a water main, sewer main, pipes or wire belonging to the municipality, notice in writing of the time and route of the said building moving operation shall be given to the various municipal officials in charge of the municipal utility departments who shall proceed in behalf of the municipality and at the expense of the mover to make such disconnections and do such work as is necessary.

(1997 Code, § 9-201) Penalty, see § 150.99

§ 150.16 BUILDING MOVING; DEPOSIT.

At such time as the building moving has been completed, Law Enforcement 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 municipal laws have

been violated during the said operation. Upon a satisfactory report from Law Enforcement, the Village 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 governing body 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 set by resolution of the governing body, as required herein, the governing body may recover such excess expense by civil suit or otherwise as prescribed by law.

(1997 Code, § 9-202) Penalty, see § 150.99

BARRICADES AND LIGHTS

§ 150.30 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 municipality to have during such work all excavations, open basements, building materials and debris protected by suitable guards or barricades by day, and by warning lights at night. The failure, neglect or refusal of said persons to erect such guards shall constitute a violation of this section and Law Enforcement shall stop all work until guards are erected and maintained as required.

(1997 Code, § 9-301) Penalty, see § 150.99

UNSAFE BUILDINGS

§ 150.45 DEFINITION.

(A) The term **UNSAFE BUILDING** as used in this subchapter is hereby defined to mean and include any building, shed, fence or other human-made structure:

(1) Which is dangerous to the public health because of its condition, and which may cause or aid in the spread of disease or injury to the health of the occupants of it or neighboring structures;

(2) Which because of faulty construction, age, lack of proper repair, or any other cause is especially liable to fire and constitutes or creates a fire hazard; or

(3) Which by reason of faulty construction or any other cause is liable to cause injury or damage by the collapse or fall of all or any part of such structure.

(B) Any such unsafe building in the municipality is hereby declared to be a nuisance.

(1997 Code, § 9-401) Penalty, see § 150.99

§ 150.46 PROHIBITION.

It shall be unlawful to maintain or permit the existence of any unsafe building in the municipality and it shall be unlawful for the owner, occupant or person in custody of any dangerous building to permit the same to remain in an unsafe condition or to occupy such building or permit it to be occupied while it is in an unsafe condition.

(1997 Code, § 9-402) Penalty, see § 150.99

§ 150.47 DETERMINATION AND NOTICE.

(A) Whenever the governing body shall be of the opinion that any building or structure in the municipality is an unsafe building, a written statement shall be filed to this effect with the Village Clerk. The Clerk shall thereupon cause the property to be posted accordingly, and shall file a copy of such determination in the office of the County Register of Deeds, and shall serve written notice upon the owner thereof, and upon the occupant thereof, if any, by certified mail or by personal service. Such notice shall state that the building has been declared to be in an unsafe condition; and that such dangerous condition must be removed or remedied by repairing or altering the building or by demolishing it; and that the condition must be remedied within 60 days from the date of receipt. Such notice may be in the following terms:

“To _____ (owner-occupant of premises) of the premise known and described as _____;

“You are hereby notified that _____ (describe building) on the premises above mentioned has been determined to be an unsafe building and a nuisance after inspection by _____. The causes for this decision are _____ (here insert the facts as to the dangerous condition).

“You must remedy this condition or demolish the building within 60 days from the date of receipt of this notice or the municipality will proceed to do so. Appeal of this determination may be made to the governing body, acting as the Board of Appeals, by filing with the Village Clerk within ten days from the date of receipt of this notice a request for a hearing.”

(B) If the person receiving the notice has not complied therewith or taken an appeal from the determination of the officer or employee finding that a dangerous building exists within ten days from the time when this notice is served upon such person by personal service or certified mail, the governing body may proceed to direct that the condition be remedied or that

the unsafe building be demolished.

(1997 Code, § 9-403) Penalty, see § 150.99

§ 150.48 HEARING AND APPEAL.

Upon receiving the notice to repair or demolish the building, the owner of the building, within the time stipulated, may in writing to the Village Clerk request a hearing before the governing body, sitting as the Board of Appeals, to present reasons why the building should not be repaired or demolished. The governing body shall grant such hearing within ten days from the date of receiving the request. A written notice of the governing body's decision following the hearing shall be sent to the property owner by certified mail. If the governing body rejects the appeal, the owner shall have five days from the sending of the decision to begin repair or demolition and removal. If after the five-day period the owner has not begun work, the governing body shall proceed to cause such work to be done; provided, the property owner may appeal such decision to the appropriate court for adjudication during which proceedings the decision of the governing body shall be stayed. Where the municipality has not adopted a building code, the statutes of the state relating to bonded indebtedness and collection of delinquent taxes shall apply.

(1997 Code, § 9-404) Penalty, see § 150.99

§ 150.49 EMERGENCY.

Where any unsafe building or structure poses an immediate danger to the health, safety or general welfare of any person or persons, and the owner fails to remedy the situation in a reasonable time after notice by the governing body to do so, the municipality may summarily repair or demolish and remove such building or structure.

(1997 Code, § 9-405)

§ 150.50 SPECIAL ASSESSMENTS.

(A) If any owner of any building or structure fails, neglects or refuses to comply with notice by or on behalf of the municipality to repair, rehabilitate or demolish and remove a building or structure which is unsafe and a public nuisance, the municipality 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 governing body.

(B) The governing body may:

(1) Levy the cost as a special assessment against the lot or real estate upon which the building or structure is located. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments; or

(2) Collect the cost from the owner of the building or structure and enforce the collection by civil action in any court of competent jurisdiction.

(1997 Code, § 9-406) (Ord. 6-90, passed 12-11-1990)

Statutory reference:

Related provisions, see Neb. RS 18-1720, 18-1722, 18-1722.01, 77-1725

BUILDING REGULATIONS

§ 150.65 MANUFACTURED HOMES; STANDARDS.

(A) A manufactured home may be used as a residential structure in any zone in which residential uses are permitted if such manufactured home bears an appropriate seal which indicates that it was constructed in accordance with the standards of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, the State Uniform Standards for Modular Housing Units Act, or the United States Department of Housing and Urban Development.

(B) Manufactured homes permitted pursuant to this section shall be located and installed according to the following standards which are applicable to site-built, single-family dwellings:

- (1) The home shall be located and installed on a permanent perimeter foundation;
- (2) The home shall be installed with permanent utility connections;
- (3) The home shall comply with all setback and lot requirements of the residential zone in which it is located; and
- (4) The home shall comply with the minimum square footage requirements of the residential zone in which it is located.

(C) Manufactured homes shall also meet the following standards:

- (1) The home shall have no less than 900 square feet of floor area;
- (2) The home shall have no less than an 18-foot exterior width;
- (3) The roof shall be pitched with a minimum vertical rise of two and one-half inches for each 12 inches of horizontal run;

(4) The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single-family construction;

(5) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile or rock; and

(6) The home shall have wheels, axles, transporting lights and removable towing apparatus removed.

(D) Nothing in this section shall be deemed to supersede any valid restrictive covenants of record.

(E) For purposes of this section, **MANUFACTURED HOME** shall mean:

(1) A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. parts 3280 et seq. promulgated by the United States Department of Housing and Urban Development; or

(2) A modular housing unit as defined in Neb. RS 71-1557, bearing a seal in accordance with the State Uniform Standards for Modular Housing Units Act.

(1997 Code, § 9-501) (Ord. 95-12, passed 3-14-1995; Ord. 99-05, passed 6-8-1999) Penalty, see §150.99

Statutory reference:

Related provisions, see Neb. RS 19-902

§ 150.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) 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.

(1997 Code, § 9-601) (Ord. 00-12, passed 6-13-2000)

Statutory reference:

Related provisions, see Neb. RS 17-207, 17-505, 18-1720, 18-1722

CHAPTER 151: PLANNING; SUBDIVISIONS

Section

Municipal Limits

151.01 Defined

151.02 Original plats

Additions; Municipal Planning

151.15 Subdivisions and additions permitted

151.16 Survey and plat

151.17 Streets and alleys

151.18 Approval of plat

151.19 Additions; incorporation into municipality

151.20 Designation of extraterritorial jurisdiction

151.99 Penalty

MUNICIPAL LIMITS

§ 151.01 DEFINED.

All additions, lots, lands, subdivisions and parcels of ground included within the official municipal map, and plat on file at the office of the County Register of Deeds, having been by act or ordinance of the governing body or by law duly annexed to or made a part of this municipality, or having been by the act, authority, acquiescence, consent, platting and dedication of their respective owners, created either as the original town site or as additions to the municipality are hereby declared to be within the corporate limits of the municipality. Lawfully constituted additions or changes in said municipal limits shall be indicated upon said maps and plat by the Municipal Engineer after such addition or change has been completed in accordance with the ordinances of this municipality and the laws of the state.

(1997 Code, § 11-101)

Statutory reference:

Related provisions, see Neb. RS 17-405 through 17-426, 17-1002, 17-1003

§ 151.02 ORIGINAL PLATS.

Each and all plats, lots, blocks, additions, subdivisions, outlots and parcels of ground included within the corporate limits of the municipality, and not vacated of record prior to the enactment of this chapter, including the original plat of the municipality, are hereby accepted, approved and confirmed as valid, and each and all of said lots, blocks, additions, subdivisions and outlots as heretofore platted and recorded in the office of the County Register of Deeds, and not heretofore vacated, and all other parcels of ground, included within said corporate limits, are hereby declared to be within said municipality and an integral part thereof.

(1997 Code, § 11-102)

Statutory reference:

Related provisions, see Neb. RS 17-405 through 17-426, 17-1002, 17-1003

ADDITIONS; MUNICIPAL PLANNING

§ 151.15 SUBDIVISIONS AND ADDITIONS PERMITTED.

The proprietor or proprietors of any land within the corporate limits of the village, or of any land within the area designated as the village's extraterritorial jurisdiction pursuant to Neb. RS 17-1002, may lay out such land into lots, blocks, streets, avenues, alleys and other grounds under the name of _____ Addition to the village and may subdivide, plat or lay out any such land upon conformance to and compliance with the conditions in this code and state law.

(1997 Code, § 11-201) (Ord. 26-02, passed 3-12-2002)

Statutory reference:

Related provisions, see Neb. RS 19-916

§ 151.16 SURVEY AND PLAT.

(A) The owner or proprietor of any tract or parcel of land who shall subdivide the same into two or more parts for the purpose of laying out any addition to the village or any part thereof, or suburban lots, shall cause a plat of such subdivision, with references to known or permanent monuments, to be made, which shall accurately describe all subdivisions of such tract or parcel of land, numbering the same by progressive numbers, and giving the dimensions and length and breadth thereof, and the breadth and courses of all streets and alleys established therein.

(B) The map or plat of land within the corporate limits of the village or of any land within the area designated as the village's extraterritorial jurisdiction pursuant to Neb. RS 17-1002 shall designate explicitly the land so laid out and particularly describe the lots, blocks, streets, avenues, alleys and other grounds belonging to such addition. The lots shall be designated by numbers, and streets, avenues and other grounds, by names or numbers. Such plat shall be acknowledged before some other officer authorized to take the acknowledgments of deeds, and shall contain a dedication of the streets, alleys and public grounds therein to the use and benefit of the public, and have appended a survey made by some competent surveyor with a certificate attached, certifying that he or she has accurately surveyed such addition and that the lots, blocks, streets, avenues, alleys, parks, commons and other grounds are well and accurately staked off and marked. When such map or plat is so made out, acknowledged and certified, and has been approved by the Board of Trustees, the same shall be filed and recorded in the office of the Register of Deeds and County Assessor.

(1997 Code, § 11-202) (Ord. 27-02, passed 3-12-2002)

Statutory reference:

Related provisions, see Neb. RS 17,415, 19-916

§ 151.17 STREETS AND ALLEYS.

Streets and alleys laid out in any addition to or in any suburban development of the municipality shall be continuous with and correspond in direction and width to the streets and alleys of the municipality to which they are an addition.

(1997 Code, § 11-205)

Statutory reference:

Related provisions, see Neb. RS 17-405, 17-418, 17-1003

§ 151.18 APPROVAL OF PLAT.

(A) Before any such map or plat shall have any validity, it must first be submitted to and be approved and accepted by the governing body of the municipality; or by its designated agent when the subdivision is of existing lots and blocks, where all required public improvements have been installed, no new dedication of public rights-of-way or easements are involved, and the subdivision complies with requirements concerning minimum areas and dimensions of such lots and blocks.

(B) Where the county has both adopted a comprehensive development plan and is enforcing subdivision regulations, and the proposed subdivision plat both contemplates public streets or improvements, and lies partially or totally within the extraterritorial subdivision jurisdiction being exercised by the county, then the County Planning Commission shall be given four weeks to officially comment on the appropriateness of the design and improvements proposed in the plat.

(C) The review period for the Commission shall run concurrently with subdivision review activities of the municipality after the Commission receives all available material for a proposed subdivision plat. The map or plat must have such acceptance and such acceptance and approval endorsed thereon; provided, that before any such map, or plat shall be considered, approved or accepted, the owner, or proprietor shall pay, or cause to be paid, all taxes, special taxes and special assessments due thereon, and shall produce a certificate showing that all such taxes and assessments have been paid or canceled.

(1997 Code, § 11-206)

Statutory reference:

Related provisions, see Neb. RS 17-405, 17-1002, 19-902, 19-916

§ 151.19 ADDITIONS; INCORPORATION INTO MUNICIPALITY.

(A) All additions to the village laid out and previously located within the corporate boundaries of the village shall remain a part of the village.

(B) All additions laid out adjoining or contiguous to the corporate limits may be included within the corporate limits and become a part of the village for all purposes whatsoever at such time as the addition is approved as provided in Neb. RS 19-916.

(C) If the Board of Trustees includes the addition within the corporate limits, the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all the laws, ordinances, rules and regulations of the village.

(1997 Code, § 11-208) (Ord. 28-02, passed 3-12-2002)

Statutory reference:

Related provisions, see Neb. RS 19-916

§ 151.20 DESIGNATION OF EXTRATERRITORIAL JURISDICTION.

(A) The territory located within one mile of the corporate limits of the village and outside of any other organized city or village is hereby designated as the village's extraterritorial jurisdiction for the purpose of exercising the powers and duties granted by Neb. RS 17-1002 and 17-1003 with respect to subdivisions and platting and Neb. RS 19-2402 with respect to extension of water or sanitary sewer service.

(B) The boundaries of the territory so designated shall be as shown on the official zoning map, a copy of which is on file and available for public inspection in the office of the Village Clerk.

(1997 Code, § 11-209) (Ord. 34-94, passed 7-12-1994; Ord. 25-02, passed 3-12-2002)

Statutory reference:

Related provisions, see Neb. RS 17-1002

§ 151.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) 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.

(1997 Code, § 11-301) (Ord. 00-12, passed 6-13-2000)

Statutory reference:

Related provisions, see Neb. RS 17-207, 17-505, 18-1720, 18-1722

TABLE OF SPECIAL ORDINANCES

Table

I. FRANCHISES

II. STREET NAMES

TABLE I: FRANCHISES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	--	Grants natural gas franchise to Kansas-Nebraska Natural Gas Company, Inc. (1997 Code, § 10-301)
-	--	Grants telephone franchise to Northwestern Bell Telephone Company, Inc. (1997 Code, § 10-303)
-	--	Grants electricity franchise to Nebraska Public Power District (1997 Code, § 10-304)
209	9-8-1987	Charging and collecting a filing fee from natural gas companies

TABLE II: STREET NAMES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1918-2	1-9-2018	Newly named street of West Way, which extends from Sunset Drive to West Palmer Street.

PARALLEL REFERENCES

References to Nebraska Revised Statutes

References to 1997 Code

References to Resolutions

References to Ordinances

REFERENCES TO NEBRASKA REVISED STATUTES

<i>Neb. RS Reference</i>	<i>Code Section</i>
5-518.04	72.33
5-518.09	72.38

7-209.02	31.060
10-201 through 10-411	34.21
10-601 through 10-614	34.21
11-101	31.046
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11-109 through 11- 118	31.045
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