

CHAPTER 1 – CIVIL ADMINISTRATION

ARTICLE 1 – VILLAGE ADMINISTRATION

- SECTION 1-101: CORPORATE EXISTENCE**
- SECTION 1-102: OFFICIAL CORPORATE SEAL**
- SECTION 1-103: OATH OF OFFICE**
- SECTION 1-104: BONDS; BLANKET BOND**
- SECTION 1-105: COMPENSATION**
- SECTION 1-106: CONFLICT OF INTEREST**
- SECTION 1-107: EXAMINATION AND DUPLICATION OF PUBLIC RECORDS; FEES; CONFIDENTIAL RECORDS**

ARTICLE 2 – VILLAGE BOARD

- SECTION 1-201: POWERS AND DUTIES**
- SECTION 1-202: NUMBER AND QUALIFICATIONS**
- SECTION 1-203: VACANCY**
- SECTION 1-204: VACANCY DUE TO UNEXCUSED ABSENCES**
- SECTION 1-205: CHAIRMAN; SELECTION AND DUTIES**
- SECTION 1-206: MEETINGS; DEFINED**
- SECTION 1-207: MEETINGS; PUBLIC BODY; DEFINED**
- SECTION 1-208: MEETINGS; RIGHTS OF THE PUBLIC**
- SECTION 1-209: MEETINGS; NOTICE; AGENDA**
- SECTION 1-210: MEETINGS; NOTICE TO NEWS MEDIA**
- SECTION 1-211: MEETINGS; PLACE, DAY, TIME; QUORUM**
- SECTION 1-212: MEETINGS; REORGANIZATIONAL; STANDING COMMITTEES**
- SECTION 1-213: MEETINGS; ORDER OF BUSINESS**
- SECTION 1-214: MEETINGS; PARLIAMENTARY PROCEDURE**
- SECTION 1-215: MEETINGS; MINUTES**
- SECTION 1-216: MEETINGS; CLOSED SESSIONS**
- SECTION 1-217: MEETINGS; SPECIAL**
- SECTION 1-218: MEETINGS; EMERGENCY**

ARTICLE 3 – ORDINANCES, RESOLUTIONS AND MOTIONS

- SECTION 1-301: GRANT OF POWER**
- SECTION 1-302: ORDINANCES; STYLE**
- SECTION 1-303: ORDINANCES; TITLE; AMENDMENTS AND REVISIONS**

SECTION 1-304: ORDINANCES; INTRODUCTION

SECTION 1-305: RESOLUTIONS AND MOTIONS; INTRODUCTION

SECTION 1-306: READING AND PASSAGE

SECTION 1-307: ORDINANCES; PUBLICATION

SECTION 1-308: EMERGENCY ORDINANCES

ARTICLE 4 – APPOINTED OFFICIALS

SECTION 1-401: APPOINTMENT; GENERAL AUTHORITY

SECTION 1-402: MERGER OF OFFICES

SECTION 1-403: CLERK-TREASURER POSITION CREATED

SECTION 1-404: VILLAGE CLERK

SECTION 1-405: VILLAGE TREASURER

SECTION 1-406: VILLAGE ATTORNEY

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

SECTION 1-408: POLICE; POWERS AND DUTIES

SECTION 1-409: FIRE CHIEF

SECTION 1-410: SPECIAL ENGINEER

**SECTION 1-411: UTILITY SUPERINTENDENT; WATER, SEWER,
STREETS, PARKS**

SECTION 1-412: ELECTRIC SUPERINTENDENT

SECTION 1-413: DESIGNATED CODE ENFORCEMENT AUTHORITY

ARTICLE 5 – FISCAL MANAGEMENT

SECTION 1-501: FISCAL YEAR

SECTION 1-502: PUBLIC FUNDS DEFINED

SECTION 1-503: DEPOSIT OF FUNDS

SECTION 1-504: INVESTMENT OF FUNDS

SECTION 1-505: CREDIT CARDS; AUTHORITY TO ACCEPT

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

SECTION 1-507: CLAIMS

SECTION 1-508: WARRANTS

SECTION 1-509: EXPENDITURES

SECTION 1-510: BOND ISSUES

SECTION 1-511: SINKING FUNDS; GIFTS OF MONEY OR PROPERTY

SECTION 1-512: COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE

SECTION 1-513: SPECIAL ASSESSMENT FUND

SECTION 1-514: CONTRACTS; APPROPRIATION

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

SECTION 1-516: ANNUAL AUDIT; FINANCIAL STATEMENTS

SECTION 1-517: GENERAL FUND

SECTION 1-518: BUDGET STATEMENT; APPROPRIATIONS

SECTION 1-519: BUDGET PROCEDURE; FORM AND MANUAL INCORPORATED

SECTION 1-520: EXPENDITURES PRIOR TO ADOPTION OF BUDGET

SECTION 1-521: EMERGENCY; TRANSFER OF FUNDS

SECTION 1-522: PROPRIETARY FUNCTIONS; FISCAL YEAR; BUDGET STATEMENTS; FILING; HEARING; ADOPTION; RECONCILIATION

SECTION 1-523: PROPERTY TAX; CERTIFICATION OF AMOUNT

SECTION 1-524: ALL-PURPOSE LEVY; ALLOCATION; ABANDONMENT; EXTRAORDINARY LEVIES

SECTION 1-525: PROPERTY TAX LEVY AND REQUEST; AUTHORITY TO SET

SECTION 1-526: PROPERTY TAX LEVY; GENERAL REVENUE; OTHER TAXES AND SPECIAL ASSESSMENTS

SECTION 1-527: PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED

ARTICLE 6 – ELECTIONS

SECTION 1-601: VILLAGE BOARD

SECTION 1-602: ELECTION OF OFFICERS; CERTIFICATION

SECTION 1-603: JOINT PRIMARY AND GENERAL ELECTIONS

SECTION 1-604: JOINT, GENERAL; NOTICE

SECTION 1-605: SPECIAL ELECTION

SECTION 1-606: PETITION CANDIDATES

SECTION 1-607: CAUCUS CANDIDATES

SECTION 1-608: WRITE-IN CANDIDATES

SECTION 1-609: FILING FOR OFFICE; FORMS

SECTION 1-610: FILING FEE

SECTION 1-611: BALLOTS

SECTION 1-612: EXIT POLLS

SECTION 1-613: CERTIFICATE OF NOMINATION OR ELECTION

SECTION 1-614: RECALL PROCEDURE

ARTICLE 7 – PENAL PROVISION

SECTION 1-701: VIOLATION; PENALTY

CHAPTER 1 – CIVIL ADMINISTRATION

Article 1 – Village Administration

SECTION 1-101: CORPORATE EXISTENCE

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

SECTION 1-102: OFFICIAL CORPORATE SEAL

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

SECTION 1-103: OATH OF OFFICE

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

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

(Neb. Rev. Stat. §§11-101,17-204)

SECTION 1-104: BONDS; BLANKET BOND

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. All official bonds of village officers must be in form, joint and several, and made payable to the Village in such penalty as the Village Board may fix. 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. 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. No bond shall be deemed to be given or complete until the approval of the Village Board and all sureties are endorsed in writing on the instrument by the chairman and village clerk pursuant to the approval of the board. In place of the individual bonds required to be furnished by municipal officers, a blanket bond or undertaking or evidence of equivalent insurance may be given by the officers. The Village may pay the premium for the bond or insurance coverage, which shall be, at a minimum, an aggregate of the amounts fixed by law or by the Village Board and with such terms and conditions as may be required.

B. All official bonds of local 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 local 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 of 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 local officer. No official bond shall be rendered void by reason of any informality or irregularity in its execution or approval.

C. Official bonds, with the oath endorsed thereon, shall be filed in the proper office within the following time: (1) 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; (2) of all appointed officers, within 30 days after their appointment; and (3) 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. 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, Section 5 of the Constitution of Nebraska.

D. The officers with whom any official bonds are required by law to be filed shall carefully record and preserve the same in their respective offices and shall give certified copies thereof, when required, under the seal of their office and shall be entitled to receive for the same the usual fee allowed by law for certified copies of records in other cases.

E. 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 Neb. Rev. Stat. §§11-101 to 11-122, the provisions of Neb. Rev. Stat. §11-115 shall apply.

F. 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. When the incumbent of an office is re-elected or re-appointed, 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 non-election or non-appointment 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.

(Neb. Rev. Stat. §§11-103 to 11-105, 11-109 to 11-113, 11-115 to 11-117, 17-604)

SECTION 1-105: COMPENSATION

A. The officers and employees of the Village shall receive such compensation as the chairman and Village Board shall fix by ordinance. The Village may enact ordinances or bylaws to regulate and prescribe the compensation of officers not provided for in state law. No officer shall receive any pay or perquisites from the Village other than his or her salary. The board shall not pay or appropriate any money or other valuable thing to any person not an officer for the performance of any act, service or duty, the doing or performance of which shall come within the proper scope of the duties of any officer of the Village.

B. The compensation of any elective official of the Village 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 Village Board, 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. 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. The official may be rehired after the term of office during which he or she resigned at a greater salary.

C. All salaries of the elective officers of the Village shall be set by ordinance of the Village Board and kept on file at the office of the village clerk for public inspection. (Neb. Rev. Stat. §§17-108, 17-108.02, 17-604, 17-611, 17-612)

SECTION 1-106: CONFLICT OF INTEREST

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

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

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

1. Has a business with which the individual is associated or a business association which shall mean a business (a) in which the individual is a partner, director or officer or (b) in which the individual or a member of the individual's immediate family is a stockholder of a closed corporation stock worth \$1,000.00 or more at fair market value or which represents more than 5% equity interest, or is a stockholder of publicly traded stock worth \$10,000.00 or more at fair market value or which represents more than 10% equity interest; or
2. Will receive a direct pecuniary fee or commission as a result of the contract; provided, however, if such officer is an employee of the business involved in the contract and has no ownership interest or will not receive a pecuniary fee, such officer shall not be deemed to have an interest within the meaning of this section.

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

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

E. The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any village by a financial institution shall not be considered a contract under the provisions of this section. The ownership of less than 5% of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section. Notwithstanding the provisions of subsections (D)(1)

through (3) above, if an officer's parent, spouse or child is an employee of the Village, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his or her parent, spouse, or child for special action. If an officer has the power to employ personnel and he or she hires his or her parent, spouse, or child, such officer shall disclose the hiring pursuant to subsections (F)(1) through (5) below, except that if the parent, spouse, or child is already employed in the position at the time the officer takes office and such position does not change, no disclosure need be made. Notwithstanding any other provision of this section, any contract entered into with an interested officer shall be subject to applicable competitive bidding requirements and shall be fair and reasonable to the Village.

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

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

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

I. Any officer who knowingly violates the provisions of Neb. Rev. Stat. §§49-14,103.01 through 49.14,103.03 shall be guilty of a Class III misdemeanor. Any officer who negligently violates Neb. Rev. Stat. §§49-14,103.01 through 49.14,103.03 shall be guilty of a Class V misdemeanor.

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

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

service, or duty which shall come within the proper scope of the duties of any officer of the Vil-

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

**SECTION 1-107: EXAMINATION AND DUPLICATION OF PUBLIC RECORDS;
FEES; CONFIDENTIAL RECORDS**

All citizens of the Village and all other persons interested in the examination of the public records of the Village are fully empowered and authorized to examine such records and make memoranda copies thereof as provided in Neb. Rev. Stat. §84-712. Payment of fees may be required. Records which may be withheld from the public shall be as stated in Neb. Rev. Stat. §84-712.05 (Neb. Rev. Stat. §§84-712, 84-712.03 through 84-712.06)

Article 2 – Village Board

SECTION 1-201: POWERS AND DUTIES

A. The Village Board 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, to prevent the introduction and spread of contagious diseases, to establish and regulate markets, to erect and repair bridges, to provide for the inspection of building materials to be used or offered for sale, 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, 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.

B. The Village has the power and authority by ordinance to define, regulate, suppress, and prevent nuisances, to declare what constitutes a nuisance, and to abate and remove the same. The Village may exercise such power and authority within its zoning jurisdiction.

(Neb. Rev. Stat. §§17-207, 17-505, 18-1720)

SECTION 1-202: NUMBER AND QUALIFICATIONS

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

SECTION 1-203: VACANCY

A. Any vacancy on the Village Board shall be filled as provided below.

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

C. The chairman 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 chairman shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term. The regular or special meeting shall occur upon the death of the incumbent or within four weeks after the meeting at which such no-

tice of vacancy has been presented. The board shall vote upon such nominee and if a majority votes in favor of such nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the chairman shall at the next regular or special meeting submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive a majority of the votes, the chairman shall continue at such meeting to submit the names of qualified registered voters in nomination and the board shall continue to vote upon such nominations at such meeting until the vacancy is filled. The chairman shall cast his or her vote for or against the nominee in the case of a tie vote of the board. Every board member present shall cast a ballot for or against the nominee. Any member of the board who has been appointed to fill a vacancy on the board shall have the same rights, including voting, as if such person were elected.

D. The chairman and board may, in lieu of filling a vacancy in a village elected office as provided in subsections (B) and (C) of this section, call a special village election to fill such vacancy.

E. If vacancies exist in the offices of one-half or more of the members of the Village Board, the secretary of state shall conduct a special village election to fill such 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 Village Board during the remainder of his or her term of office.

G. Every elective office shall be vacant upon the happening of any of the events specified in Neb. Rev. Stat. §32-560.
(Neb. Rev. Stat. §§32-568, 32-569, 32-1308)

SECTION 1-204: VACANCY DUE TO UNEXCUSED ABSENCES

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

SECTION 1-205: CHAIRMAN; SELECTION AND DUTIES

The Village Board chairman shall be selected by the board members at their first regular meeting in December following the statewide general election. The chairman shall preside at all meetings of the board. In the absence of the chairman, the Village Board shall elect one of its members to occupy the position temporarily, who shall hold the title of chairman *pro tempore*. The chairman and the chairman *pro tempore* shall have the same powers and privileges as other board members. The chairman shall cause all ordinances of the board to be printed and published for the information of the residents. The chairman shall also perform all duties of his or her office in ac-

cordance with state laws and village ordinances. The qualifications for the chairman shall be the same general qualifications that apply to the members of the Village Board. (Neb. Rev. Stat. §§17-203, 17-204, 17-210)

SECTION 1-206: MEETINGS; DEFINED

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

SECTION 1-207: MEETINGS; PUBLIC BODY; DEFINED

“Public body” as used in this article shall mean (A) the Village Board; (B) all independent boards, commissions, bureaus, committees, councils, sub-units, or any other bodies now or hereafter created by Constitution, statute, ordinance, or otherwise pursuant to law; and (C) advisory committees of the bodies listed. This section 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 bodies. (Neb. Rev. Stat. §84-1409[1])

SECTION 1-208: MEETINGS; RIGHTS OF THE PUBLIC

A. All public meetings as defined by law shall be held in a village public building which shall be open to attendance by the public. All meetings shall be held in the public building in which the Village Board usually holds such meetings unless the publicized notice hereinafter required shall designate some other public building or other specified place. Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act. At least one current copy of the Open Meetings Act shall be posted in the meeting room at a location accessible to members of the public. At the beginning of each meeting, the public shall be informed about the location of the posted information.

B. Subject to the Open Meetings Act, the public shall have the right to attend and the right to speak at meetings of public bodies. All or any part of a meeting of the Village Board except for closed meetings called pursuant to Section 1-216 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.

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

D. The board shall not require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The board may require any member of the public desiring to address the body to identify himself or herself. The board may allow a member of the public or any other witness other than a board member to appear before the board by means of video or telecommunications equipment.

E. The board shall not, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience. The board shall not be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

F. The board shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting and 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.

(Neb. Rev. Stat. §§84-1408, 84-1411, 84-1412, 84-1414)

SECTION 1-209: MEETINGS; NOTICE; AGENDA

A. The Village Board shall give reasonable advance publicized notice of the time and place of each meeting by (1) publication in a newspaper of general circulation within the Village and, if available, on such newspaper's website; or (2) by posting written notice in three conspicuous public places in the Village. If posted, such notice shall be posted in the same three places for each meeting. The board shall record the methods and dates of such notice in its minutes.

B. Such notice shall be transmitted to all board members and to the public. Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the village office during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting.

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 Village Board scheduled outside the corporate limits of the Village. The board shall have the right to modify the agenda to include items of an emergency nature only at such public meetings.
(Neb. Rev. Stat. §84-1411[1])

SECTION 1-210: MEETINGS; NOTICE TO NEWS MEDIA

The village clerk shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them

of the time and place of each meeting and the subjects to be discussed. (Neb. Rev. Stat. §84-1411[4])

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

A. The regular meetings of the Village Board shall be held at the auditorium on the second Wednesday of each month at 7:00 p.m.

B. At all meetings of the Village Board, a majority of the members shall constitute a quorum to do business. A smaller number may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as the board may have previously prescribed by ordinance.

C. At the hour appointed for the meeting, the village clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the board shall be called to order by the chairman. In the absence of the chairman, the meetings shall be called to order by the chairman *pro tempore*.
(Neb. Rev. Stat. §§17-204, 17-205)

SECTION 1-212: MEETINGS; REORGANIZATIONAL; STANDING COMMITTEES

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

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

C. At the reorganizational meeting, the chairman shall appoint members to such standing committees as the board may create by ordinance or resolution. The membership of such committees may be changed at any time by the chairman, who shall be an *ex officio* member of each standing committee. The members of the committees shall serve terms of office of one year unless reappointed.
(Neb. Rev. Stat. §17-204)

SECTION 1-213: MEETINGS; ORDER OF BUSINESS

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

SECTION 1-214: MEETINGS; PARLIAMENTARY PROCEDURE

Questions of procedure and conduct at Village Board meetings shall be decided by the chairman in accordance with *Robert's Rules of Order*.

SECTION 1-215: MEETINGS; MINUTES

A. The Village Board shall cause minutes to be kept of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

B. Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the board in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or voice vote shall be satisfied if the Village utilizes an electronic voting device which allows the "yeas" and "nays" of each member of the Village Board to be readily seen by the public.

C. The vote to elect leadership within the board may be taken by secret ballot but the total number of votes for each candidate shall be recorded in the minutes.

D. 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.

E. The minutes of any meeting of the Village Board shall be written or kept as an electronic record and shall be available for public inspection within ten working days of the meeting 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 or keeping the minutes is absent due to a serious illness or emergency. If the Village maintains a public website, (1) the agenda shall be posted on the site at least 24 hours before the meeting and (2) minutes shall be posted on the site at such time as they are available for inspection by the public as described above. Minutes shall be available on the public website for at least six months.

(Neb. Rev. Stat. §§17-206, 17-616, 84-1413)

SECTION 1-216: MEETINGS; CLOSED SESSIONS

A. The Village Board may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. Closed sessions may be held for, but shall not be limited to, such reasons as:

1. Strategy sessions with respect to real estate purchases, collective bargain-

ing, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

2. Discussion regarding deployment of security personnel or devices;
3. Investigative proceedings regarding allegations of criminal misconduct; or
4. Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting.

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

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

D. Any Village Board member 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 board members. Such challenge and its disposition shall be recorded in the minutes.

E. Nothing in this section shall be construed to require that any meeting be closed to the public. The Village Board shall not fail to invite a portion of its members to a meeting and the board shall not designate itself a subcommittee of the whole body for the purpose of circumventing the provisions of this article. No closed session, informal meeting, chance meeting, social gathering, or electronic communication shall be used for the purpose of circumventing the provisions of this article.

F. The provisions of this article shall not apply to chance meetings or to attendance at or travel to conventions or workshops of the board members at which there

is no meeting of the board then intentionally convened, if there is no vote or other action taken regarding any matter over which the board has supervision, control, jurisdiction, or advisory power.

(Neb. Rev. Stat. §84-1410)

SECTION 1-217: MEETINGS; SPECIAL

Special meetings may be called by the chairman or by a majority of the Village Board, 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. The procedures for the meeting shall follow those of any regular meeting. (Neb. Rev. Stat. §§17-204, 17-205)

SECTION 1-218: MEETINGS; EMERGENCY

A. 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 virtual conferencing. The provisions of Section 1-210 (Notice to News Media) shall be complied with in conducting emergency meetings.

B. When any ordinance is enacted in an emergency, requiring immediate operation, such ordinance shall take effect upon the proclamation of the village chairman, posted in at least three of the most public places in the Village. Such emergency ordinance shall recite the emergency, be passed by a three-fourths vote of the Village Board and be entered of record on the minutes.

C. Complete minutes of any such emergency meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(Neb. Rev. Stat. §§17-613, 84-1411)

Article 3 – Ordinances, Resolutions and Motions

SECTION 1-301: GRANT OF POWER

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

SECTION 1-302: ORDINANCES; STYLE

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

SECTION 1-303: ORDINANCES; TITLE; AMENDMENTS AND REVISIONS

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

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

SECTION 1-304: ORDINANCES; INTRODUCTION

Ordinances shall be introduced in either of the following ways:

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

B. With the recognition of the chairman, a board member may present his or her proposed ordinance to the clerk who, in the presence and hearing of a majority of the board, shall read aloud the substance of the same and shall file the same for future consideration.
(Neb. Rev. Stat. §§17-614, 17-616)

SECTION 1-305: RESOLUTIONS AND MOTIONS; INTRODUCTION

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

SECTION 1-306: READING AND PASSAGE

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

SECTION 1-307: ORDINANCES; PUBLICATION

A. All ordinances of a general nature shall take effect after publication, within 15 days after they are passed, (1) in a legal newspaper in or of general circulation in the village or (2) in book, pamphlet, or electronic form.

B. The passage, approval, and publication of any ordinance in a newspaper shall be sufficiently proved by a certificate under seal of the Village from the village clerk, showing that such ordinance was passed and approved and when and in what legal newspaper the ordinance was published.

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

SECTION 1-308: EMERGENCY ORDINANCES

An ordinance passed in the case of emergency, requiring its immediate operation, shall take effect as provided in Section 1-218 (Meetings; Emergency) herein. (Neb. Rev. Stat. §17-613)

Article 4 – Appointed Officials

SECTION 1-401: APPOINTMENT; GENERAL AUTHORITY

A. The chairman, with the consent of the Village Board, may appoint a village clerk, treasurer, attorney, engineer, overseer of the streets, and chief of police and other such officers as shall be required by ordinance or otherwise required by law. Such officers may be removed from office by the chairman. All officers appointed by the chairman and confirmed by the board, except regular police officers, shall hold office for one year unless removed by the village chairman with the advice and consent of the Village Board.

B. The chairman, by and with the consent of the Village Board, shall appoint such a number of regular police officers as may be necessary. All police officers appointed by the chairman and board may be removed, demoted, or suspended at any time by the chairman as provided in Neb. Rev. Stat. §17-107. A police officer, including the chief of police, may appeal to the board such removal, demotion, or suspension with or without pay. After a hearing, the board may uphold, reverse, or modify the action.

C. The Village may enact ordinances or bylaws to regulate and prescribe the powers, duties, and compensation of officers not provided for in state law. If the chairman and Village Board appoint any of the officials specified within this article or any other officials, they shall have the powers and duties, if any, provided in this article or otherwise provided by village ordinances and state law.
(Neb. Rev. Stat. §§17-208, 17-541)

SECTION 1-402: MERGER OF OFFICES

A. The Village Board may by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except trustee, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time. However, trustees may perform, and upon board approval receive compensation for, seasonal or emergency work subject to Neb. Rev. Stat. §§49-14,103.01 through 49.14,103.06

B. The offices or employments so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged and combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment, or employments so merged and combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers.

(Neb. Rev. Stat. §§17-209.02, 49-14,103.01 through 49-14,103.06)

SECTION 1-403: CLERK-TREASURER POSITION CREATED

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

SECTION 1-404: VILLAGE CLERK

A. The village clerk shall attend the meetings of the Village Board and keep a correct journal of the proceedings of that body. Within 30 days after any board meeting, the clerk shall prepare and publish the official proceedings in a legal newspaper of general circulation in the Village and which was duly designated as such by the board. Said publication shall set forth a statement of the proceedings thereof and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item.

B. After the period of time specified by the state records administrator pursuant to Neb. Rev. Stat. §§84-1201 to 84-1220, the clerk may transfer the journal of the board proceedings to the state archives of the Nebraska State Historical Society for permanent preservation.

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

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

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

F. 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. The charge for such publication shall not exceed the rates provided by state statutes. Said publication shall be charged against the general fund. The clerk

shall then keep in a book with a proper index copies of all notices required to be published or posted by order of the Village Board or under the ordinances of the Village. The printer's affidavit of publication shall be attached to each of the file copies of said notices if the said notices are required to be published or the village clerk's certificate under seal where the same are required to be posted only.

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

H. The clerk shall keep all village records, including a record of all licenses issued, in a book with a proper index. The clerk shall include as part of the records all petitions under which the Village Board shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions and ordinances relating to the same. The clerk shall endorse the date and hour of filing upon every paper or document so filed in the village office. All such filings shall be properly docketed. Included in the records shall be all standard codes, amendments thereto, and other documents incorporated by reference and arranged in a manner convenient for reference.

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

(Neb. Rev. Stat. §§17-605, 19-1102, 84-1201 through 84-1220, 84-712)

SECTION 1-405: VILLAGE TREASURER

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

consent of the board members, may use this failure as cause to remove the treasurer from office.

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

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

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

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

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

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

SECTION 1-406: VILLAGE ATTORNEY

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

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

The Village may enter into a contract with the County Board of Greeley County for police and law enforcement services to be provided by the Greeley County Sheriff's Office. Whenever any such contract has been entered into, the sheriff or his deputies shall, in addition to their other powers and duties, have all the powers and duties of the village police chief within and for the Village. (Neb. Rev. Stat. §17-213)

SECTION 1-408: POLICE; POWERS AND DUTIES

A. If the chairman and Village Board have provided for the appointment of a police chief, the Police Department shall consist of the chief of police and such further number of regular police officers as may be appointed. The chief of police shall, subject to the direction of the chairman, have control and management of all matters relating to the Police Department and its officers and members and shall have the custody and control of all property and books belonging to the department. The chief shall devote his or her time to village affairs and interests of the Village and to the preservation of peace, order, safety, and cleanliness thereof.

B. The department shall execute and enforce all laws and also the orders of the chairman. It shall be the duty of the department to protect the rights of persons and property. The department shall take notice of all nuisances, impediments, obstructions, and defects in the streets, avenues, alleys, business places, and residences of the Village. The department shall execute, or cause to be executed, the processes issued and shall cause all persons arrested to be brought before the proper court for trial as speedily as possible. Village police officers shall have full power and authority to call on any person whenever necessary to assist them in performing public duties and failure, neglect or refusal to render such assistance shall be deemed an offense.

C. The village police, whether regular or special, shall have the power to arrest all offenders against the laws of the state or the Village and keep the said offenders in the village jail or some other place to prevent their escape until trial can be held before the proper official. Every village police officer shall be expected to be conversant with and knowledgeable of the Village and state laws. No law enforcement official shall have any interest in any establishment having a liquor license. Village police shall have the duty to file such complaints and reports as may be required by village ordinances and state laws.

D. Village police who shall purposely and willfully fail, neglect, or refuse to make an arrest or purposely and willfully fail to make a complaint after an arrest is made shall be charged with a misdemeanor and upon conviction shall be fined. It shall be unlawful for the Village Board to retain any village police officer in such position upon conviction of any Class I misdemeanor, Class W misdemeanor, or any felony violation of the United States, the State of Nebraska, or any other comparable offenses of any other jurisdiction.

E. It shall be the duty of every village police officer making a lawful arrest to search all persons in the presence of some other person whenever possible and shall carefully keep and produce to the proper judicial official upon the trial everything found upon the person of such prisoners. All personal effects so taken from prisoners aforesaid shall be restored to them upon their release.

F. Suitable uniforms and badges shall be furnished to the village police by the Village. Any member who shall lose or destroy the same shall be required to pay the replacement costs and in the event that any member shall leave the force, he or she shall immediately deliver his or her badge to the village police chief. The Village Board may from time to time provide the village police with such uniforms, equipment, and transportation as may be essential in the performance of their official duties.

(Neb. Rev. Stat. §§17-107, 17-118, 17-124, 17-213)

SECTION 1-409: FIRE CHIEF

The duties of the fire chief shall be as provided in Section 8-104.

SECTION 1-410: SPECIAL ENGINEER

The Village Board may employ a special engineer to make any particular estimate, survey or other work. When directed by the board, he shall accurately make all plats, sections, profiles, and maps as may be necessary and make estimates of the costs of labor and material which may be done or furnished by contract with the Village. The special engineer shall make all surveys, estimates, and calculations necessary for the establishment of grades, bridges, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, curbing and gutters, and the improvement of streets and erection and repair of buildings. He shall perform such other duties as the Village Board may require and shall make a record of the minutes

of his surveys and all other work done for the Village. All records of the special engineer shall be public records which shall belong to the Village and shall be turned over to his successor. (Neb. Rev. Stat. §§17-405, 17-568, 17-568.01, 17-919)

SECTION 1-411: UTILITY SUPERINTENDENT; WATER, SEWER, STREETS, PARKS

The utility superintendent, subject to the supervision of the Village Board, shall have the general management and control of the following village utilities and shall have such other duties as prescribed by the board:

Water and Sewer

The utility superintendent shall have general supervision and control over the village water and sewer systems and shall be primarily responsible for their economic operation and prudent management. The superintendent shall have the general control and supervisory authority over all employees of the water and sewer systems which the Village Board may from time to time hire to operate and maintain the said systems. He or she shall make a detailed report regularly to the board of the condition of the said water and sewer systems, which shall show the amount of receipts and expenditures on account thereof for the preceding report period. The superintendent shall recommend such improvements, repairs, extensions and additional employees as he or she may think proper, along with an estimate of the costs thereof. No money shall be expended for improvements, repairs, or extensions of the said water and sewer systems except upon the recommendation of the superintendent. (Neb. Rev. Stat. §§17-541, 17-543, 18-501)

Streets

In addition to the above utilities, the utility superintendent shall, subject to the orders and directives of the Village Board, have general charge, direction, and control of all work on the streets, sidewalks, culverts, and bridges of the Village. It shall be his or her responsibility to see that gutters and drains therein function properly and that the same are kept in good repair. At the request of the board he or she shall make a detailed report on the condition of the streets, sidewalks, culverts, alleys, and bridges of the Village and shall direct its attention to such improvements, repairs, extensions, additions, and additional employees as he or she may believe are needed to maintain a satisfactory street system in the Village, along with an estimate of the cost thereof. He or she shall perform such other duties as the board may require. (Neb. Rev. Stat. §§17-119, 17-214)

Parks

The utility superintendent shall have the responsibility for the management and operation of the municipal parks, subject to the general control and directives of the Village Board. At least every six months, he shall make a detailed report to the board on the condition of the municipal parks and shall direct its attention to such improvements, repairs, and other items as he may believe are needed, along with an esti-

mate of the cost thereof. He shall have such other duties as the board may delegate to him. (Neb. Rev. Stat. §§17-214, 17-541, 17-543)

SECTION 1-412: ELECTRIC SUPERINTENDENT

The electric superintendent shall have general supervision and control over the village electric system and shall be primarily responsible for its economic operation and prudent management. The superintendent shall have the general control and supervisory authority over all employees of the electric systems which the Village Board may from time to time hire to operate and maintain the said system. He or she shall make a detailed report regularly to the board of the condition of the said electric system, which shall show the amount of receipts and expenditures on account thereof for the preceding report period. The superintendent shall recommend such improvements, repairs, extensions and additional employees as he or she may think proper, along with an estimate of the costs thereof. No money shall be expended for improvements, repairs, or extensions of the electric system except upon the recommendation of the superintendent. (Neb. Rev. Stat. §§17-541, 17-543; 18-501)

SECTION 1-413: DESIGNATED CODE ENFORCEMENT AUTHORITY

When necessary, the Village Board shall by resolution appoint a designated code enforcement authority, who shall be charged with investigating municipal code violations and assisting the village attorney in the prosecution of such violations. He or she shall verify and document such violations and issue code violation notices to offenders. The designated code enforcement authority shall not have authority to issue citations for such code violations but shall only provide such information to the village attorney, who shall use such information in prosecution of the offense. (Neb. Rev. Stat. §17-208)

Article 5 – Fiscal Management

SECTION 1-501: FISCAL YEAR

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

SECTION 1-502: PUBLIC FUNDS DEFINED

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

SECTION 1-503: DEPOSIT OF FUNDS

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

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

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

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

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

SECTION 1-504: INVESTMENT OF FUNDS

A. Investment of Surplus; Securities Authorized. Whenever the 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 Village Board may invest any such surplus in excess of current needs or such excess in its sinking fund in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made.

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

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

C. State Investment Officer. The state investment officer may provide assistance and furnish advice regarding the investment of money to the Village whenever such advice is requested. In connection with the rendering of such service, the state investment officer may charge and collect any fee he determines to be reasonable.

(Neb. Rev. Stat. §§17-608, 17-609, 72-1259, 77-2341, 77-2365.02)

SECTION 1-505: CREDIT CARDS; AUTHORITY TO ACCEPT

A. The Village Board may authorize village officials to accept credit cards, charge cards, or debit cards as a method of cash payment of any tax, levy, excise, duty, custom, toll, interest, penalty, fine, license, fee, or assessment of whatever kind or nature, whether general or special, as provided by Neb. Rev. Stat. §77-1702.

B. The total amount of such taxes, levies, excises, duties, customs, tolls, interest, penalties, fines, licenses, fees, or assessments of whatever kind or nature, whether general or special, paid for by credit card shall be collected by the village official.

C. The Village Board may choose to accept credit cards, charge cards, or debit cards as a means of cash payment to any facility it operates in a proprietary capacity and may adjust the price for services to reflect the handling and payment costs.

D. The village official shall, for each transaction, obtain authorization for use of any credit card, charge card, or debit card used pursuant to this section from the financial institution, vending service company, credit card or charge card company, or third-party merchant bank providing such service.

E. The Village Board may choose to accept the types of credit cards, charge cards, or debit cards accepted by and the services provided to the state pursuant to the contract entered into by the state with one or more credit card, charge card, or debit card companies or third-party merchant banks for services on behalf of the state and those political subdivisions that choose to participate in the state contract. The board may choose not to participate in the state contract and may choose types of credit cards, charge cards, and debit cards and may negotiate and contract independently or collectively as a governmental entity with one or more financial institutions, vending service companies, credit card, charge card, or debit card companies or third-party merchant banks for the provision of such services.

F. When authorizing acceptance of credit card payments, the Village Board shall be authorized but not required to impose a surcharge or convenience fee upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to the Village. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to the Village by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of such surcharge or convenience fee shall be deemed voluntary by such person and shall be in no case refundable.

G. If payment is made electronically by credit card, charge card, debit card, or electronic funds transfer as part of a system for providing or retrieving information electronically, the Village shall be authorized but not required to impose an additional

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charge or convenience fee upon the person making a payment. "Electronic funds transfer" shall mean the movement of funds by non-paper means, usually through a payment system, including, but not limited to, an automated clearinghouse or the Federal Reserve's Fedwire system.

(Neb. Rev. Stat. §13-609)

SECTION 1-506: DEBT COLLECTION; AUTHORITY TO CONTRACT WITH COLLECTION AGENCY

A. The Village may contract to retain a collection agency, licensed pursuant to Neb. Rev. Stat. §§45-601 to 45-602, within or without this state for the purpose of collecting public debts owed by any person to the Village. No debt owed pursuant to this subsection (A) may be assigned to a collection agency unless (1) there has been an attempt to advise the debtor by first-class mail, postage prepaid, at his or her last known address, of the existence of the debt and that the debt may be assigned to a collection agency for collection if the debt is not paid; and (2) at least 30 days have elapsed from the time the notice was sent. A collection agency which is assigned a debt under this section shall have only those remedies and powers which would be available to it as an assignee of a private creditor.

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

(Neb. Rev. Stat. §45-623)

SECTION 1-507: CLAIMS

A. All liquidated and unliquidated claims and accounts payable against the Village shall be presented in writing; state the name and address of the claimant and the amount of the claim; and fully and accurately identify the items or services for which payment is claimed or the time, place, nature and circumstances giving rise to the claim. As a condition precedent to maintaining an action for a claim, other than a tort claim as defined in Neb. Rev. Stat. §13-903, the claimant shall file such claim within 90 days of the accrual of the claim in the office of the village clerk. The clerk shall notify the claimant or his or her agent or attorney by letter mailed to the claimant's address within five days if the claim is disallowed by the Village Board.

B. No costs shall be recovered against the Village in any action brought against it for an unliquidated claim which has not been presented to the Village Board to be audited nor upon claims allowed in part, unless the recovery shall be for a greater sum than the amount allowed, with the interest due. No order or warrant shall be drawn in excess of 85% of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the village treasury for the appropriate fund against which it is to be drawn; provided, in the event there exist obligated funds from the federal and/or state government for the general purpose of such warrant, then

such warrant may be drawn in excess of 85% but not more than 100% of the current levy for the purpose for which said warrant is drawn.
(Neb. Rev. Stat. §§17-714, 17-715)

SECTION 1-508: WARRANTS

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

SECTION 1-509: EXPENDITURES

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

SECTION 1-510: BOND ISSUES

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

SECTION 1-511: SINKING FUNDS; GIFTS OF MONEY OR PROPERTY

A. The Village is hereby empowered to receive money or property by donation, bequest, gift, devise, or otherwise for the benefit of any one or more of the public purposes for which sinking funds are established by the provisions of this section, as stipulated by the donor. The title to the money or property so donated shall vest in the Village Board or in its successors in office, who shall become the owners thereof in trust to the uses of the sinking fund or funds; provided, if the donation is real estate, the board may manage the same as in the case of real estate donated to the Village for village library purposes under the provisions of Neb. Rev. Stat. §§51-215 and 51-216.

B. The Village Board, subject to all the limitations set forth in this section, shall have the power to levy a tax not to exceed that prescribed by state law upon the taxable value of all the taxable property within the Village for a term not to exceed ten years, in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the Village, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, original equipment, or repair, not including maintenance, of any one or more of the public improvements

authorized by state law, including acquisition of any land incident to the making thereof. The Village shall not be authorized to levy the tax or to establish the sinking fund as provided in this subsection if, having bonded indebtedness, such village has been in default in the payment of interest thereon or principal thereof for a period of ten years prior to the date of the passage of the resolution providing for the submission of the proposition for establishment of the sinking fund as required in subsection (C).

C. Before any sinking fund or funds are established or before any annual tax is levied for any such planned village improvement mentioned in subsection (B) by the Village, the Village Board shall declare its purpose by resolution to submit to the qualified electors of the Village at the next general village election the proposition to provide the Village with the specific municipal improvement planned for consummation under this section. The resolution of submission shall, among other things, set forth a clear description of the improvement planned, the estimated cost according to the prevailing costs, the amount of annual levy over a definite period of years, not exceeding ten years, required to provide such cost, and the specific name or designation for the sinking fund sought to be established to carry out the planned improvement, together with a statement of the proposition for placement upon the ballot at such election. Notice of the submission of the proposition, together with a copy of the official ballot containing the same, shall be published in its entirety three successive weeks before the day of the election in a legal newspaper published in the Village. No such sinking fund shall be established unless the same has been authorized by a majority or more of the legal votes of the Village cast for or against the proposition. If less than a majority of the legal votes favor the establishment of the sinking fund, the planned improvement shall not be made, no annual tax shall be levied therefor, and no sinking fund(s) shall be established in connection therewith, but such resolution of submission shall immediately be repealed. If the proposition shall carry at such election in the manner prescribed in this subsection, the Village Board and its successors in office shall proceed to do all things authorized under such resolution of submission but never inconsistent with this section. Provisions of the statutes of the state relating to election of officers, voting places, election apparatus and blanks, preparation and form of ballots, information to voters, delivery of ballots, conduct of elections, manner of voting, counting of votes, records and certificates of elections, and recounts of votes, so far as applicable, shall apply to voting on the proposition under this section.

D. All funds received by the village treasurer, by donation or by tax levy, as hereinbefore provided, shall be immediately invested by the treasurer as they accumulate, with the written approval of the Village Board, in the manner provided in Neb. Rev. Stat. §77-2341. Whenever investments of such sinking fund or funds are made as aforesaid, the nature and character of the same shall be reported to the board and the investment report shall be made a matter of record by the village clerk in the proceedings of the board. The sinking fund(s) accumulated under the provisions of this section shall constitute a special fund for the purpose for which the same was authorized and shall not be used for any other purpose unless authorized by 60% of the qualified electors of the Village voting at a general election favoring such change in

the use of the sinking fund; provided, the question of the change in the use of the sinking fund, when it fails to carry, shall not be resubmitted in substance for a period of one year from and after the date of such election.

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

SECTION 1-512: COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE

A. The Village shall collect the special assessments which it levies and perform all other necessary functions related thereto including foreclosure. Notice that special assessments are due shall be mailed or otherwise delivered to the last known address of the person against whom such special assessments are assessed or to the lending institution or other party responsible for paying such special assessments. Failure to receive such notice shall not relieve the taxpayer from any liability to pay such special assessments and any interest or penalties accrued thereon.

B. The Village shall:

1. File notice of the assessments and the amount of assessment being levied for each lot or tract of land with the register of deeds; and
2. File a release of assessment upon final payment of each assessment with the register of deeds.

(Neb. Rev. Stat. §18-1216)

SECTION 1-513: SPECIAL ASSESSMENT FUND

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

SECTION 1-514: CONTRACTS; APPROPRIATION

No contracts shall hereafter be made by the Village Board or any committee or member thereof and no expense shall be incurred by any of the officers or departments of the Village, whether the object of the expenditures shall be ordered by the board or not, unless an appropriation shall have been previously made concerning such expense or the funds necessary for the payment of such expense have been duly transferred according to law. (Neb. Rev. Stat. §§17-708, 17-709)

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

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

provement when the cost of such enlargement or improvement is assessed to the property, unless it is first approved by the Village Board.

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

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

D. 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 such enlargement or improvement without advertising for bids if the price is:

1. \$30,000.00 or less;
2. \$60,000.00 or less and the village electric utility has gross annual revenue from retail sales in excess of \$1,000,000.00;
3. \$90,000.00 or less and the village electric utility has gross annual revenue from retail sales in excess of \$5,000,000.00; or
4. \$120,000.00 or less and the village electric utility has gross annual revenue from retail sales in excess of \$10,000,000.00.

D. The advertisement provided for in subsections (B) and (C) of this section shall be published at least seven days prior to the bid closing in a legal newspaper published in or of general circulation in the Village or, if no newspaper has general circulation in the Village or County, by posting a written or printed copy thereof in each of three public places in the Village at least seven days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency, pressing necessity, or unforeseen need calling for immediate action or remedy to prevent a serious loss of or serious injury or damage to life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by Neb. Rev. Stat. §17-613 when adopted by a three-fourths vote of the Village Board and entered of record.

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

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

G. Any village bidding procedure may be waived by the Village Board when materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in Neb. Rev. Stat. §§81-145 to 81-162 or when the contract is negotiated directly with a sheltered workshop pursuant to Neb. Rev. Stat. §48-1503 or when required to comply with any federal grant, loan or program.
(Neb. Rev. Stat. §§17-568.01, 17-568.02)

SECTION 1-516: ANNUAL AUDIT; FINANCIAL STATEMENTS

A. The Village Board 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, unless a waiver of the audit requirement is requested, subject to the requirements of Neb. Rev. Stat. §84-304(4). The audit shall be made on a cash or accrual method at the discretion of the Village. 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 shall be granted by a written resolution adopted by the Village Board.

B. If the Village is required to conduct an audit under Neb. Rev. Stat. §84-304(4) and owns or operates any type of public utility or other enterprise which substantially generates its own revenue, that phase of the Village's affairs shall be reported separately from the other functions of the Village. The result of the 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 Village.

C. 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.

D. 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 state auditor of public accounts. The copy of the annual audit report submitted to the auditor of public accounts shall be accompanied by a supplemental report, if appropriate, by the accountant making the audit identifying any illegal acts or indications of illegal acts discovered as a result of the audit.

E. The annual audit report filed, together with any accompanying comment or explanation, shall become a part of the public records of the Village and shall at all times thereafter be open and subject to public inspection. The copies filed with the auditor shall be kept as a part of the public records in that office for at least five years and shall at all times be subject to public inspection.
(Neb. Rev. Stat. §§13-606, 19-2903 through 19-2905)

SECTION 1-517: GENERAL FUND

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

SECTION 1-518: BUDGET STATEMENT; APPROPRIATIONS

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

SECTION 1-519: BUDGET PROCEDURE; FORM AND MANUAL INCORPORATED

Budgets shall be prepared as provided in the Nebraska Budget Act, Neb. Rev. Stat. §§13-501 to 13-513. For the purpose of proper budget preparation, the *City/Village Budget Form* and the *Budget Form Instruction Manual*, prepared by the state auditor of public accounts, are incorporated by reference.

SECTION 1-520: EXPENDITURES PRIOR TO ADOPTION OF BUDGET

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

B. The restriction on expenditures in subsection (A) of this section may be exceeded upon the express finding of the Village Board that expenditures beyond the amount authorized are necessary to enable the Village to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the

statutory authorization shall be adopted by the board in open public session. Expenditures authorized by this section shall be charged against appropriations for each individual fund or purpose as provided in the budget when adopted, and nothing in this section shall be construed to authorize expenditures by the Village in excess of that authorized by any other statutory provision.

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

SECTION 1-521: EMERGENCY; TRANSFER OF FUNDS

Whenever during the current fiscal year it becomes apparent to the Village Board that due to unforeseen emergencies there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the board may by a majority vote, unless otherwise provided by state law, transfer money from other funds to such fund. No expenditure during any fiscal year shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized in Neb. Rev. Stat. §13-511, which provides for revision of the previously adopted budget statement and conducting a public hearing on such proposal. (Neb. Rev. Stat. §13-510)

SECTION 1-522: PROPRIETARY FUNCTIONS; FISCAL YEAR; BUDGET STATEMENTS; FILING; HEARING; ADOPTION; RECONCILIATION

A. Pursuant to the Municipal Proprietary Function Act, the Village Board may prepare a proprietary budget statement for its proprietary functions separate and apart from its budget statement prepared pursuant to the Nebraska Budget Act. For purposes of this section, "proprietary function" shall mean a water supply or distribution utility, a wastewater collection or treatment utility, an electric generation, transmission, or distribution utility, a gas supply, transmission, or distribution utility, an integrated solid waste management collection, disposal, or handling utility, or a hospital or a nursing home owned by the Village.

B. The Village Board may establish a separate fiscal year for each proprietary function, except that any proprietary function which is subsidized by appropriations from the Village's general fund shall have the same fiscal year as the Village. For purposes of this section, subsidization shall mean that the costs of operation of a proprietary function are regularly financed by appropriations from the Village's general fund in excess of the amount paid by the Village to the proprietary function for actual service or services received.

C. If the Village does not include its proprietary functions in its budget statement, a proposed proprietary statement shall be prepared in writing on forms provided by the state auditor and filed with the village clerk, at least 30 days prior to the start of the fiscal year of each proprietary function, containing the following information:

1. For the immediately preceding fiscal years, the revenue from all sources, the unencumbered cash balance at the beginning and end of the year,

the amount received by taxation, and the amount of actual expenditure;

2. For the current fiscal year, actual and estimated revenue from all sources separately stated as to each such source, the actual unencumbered cash balance available at the beginning of the year, the amount received from taxation, and the amount of actual and estimated expenditure, whichever is applicable;
3. For the immediately ensuing fiscal year, an estimate of revenue from all sources separately stated as to each such source, the actual or estimated unencumbered cash balance, whichever is applicable, to be available at the beginning of the year, the amounts proposed to be expended during the fiscal year, and the amount of cash reserve based on actual experience of prior years; and
4. A uniform summary of the proposed budget statement which shall include a total of all funds maintained for the proprietary function. Such statement shall contain the estimated cash reserve for each fiscal year and shall whether or not such reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years.

D. After the proposed proprietary budget statement is filed with the village clerk, the Village Board shall conduct a public hearing on such statement. Notice of the time and place of the hearing, a summary of the proposed proprietary budget statement, and notice that the full proposed proprietary budget statement is available for public review with the village clerk during normal business hours, shall be published at least five days prior to the hearing in a newspaper of general circulation within the Village Board's jurisdiction or by mailing each resident within the board's jurisdiction.

E. After such hearing, the proposed proprietary budget statement shall be adopted or amended and adopted as amended, and a written report shall be kept of such hearing. If the adopted proprietary budget statement reflects a change from the proposed proprietary statement presented at the hearing, a copy of the adopted proprietary budget statement shall be filed with the village clerk within 20 days after its adoption and published in a newspaper of general circulation within the Village Board's jurisdiction or by mailing to each resident within the board's jurisdiction.

F. If the actual expenditures for a proprietary function exceed the estimated expenditures in the proprietary budget statement during its fiscal year, the Village Board shall adopt a proprietary function reconciliation statement within 90 days after the end of such fiscal year which reflects any difference between the adopted proprietary budget statement for the previous fiscal year and the actual expenditures and revenue for such fiscal year. After the adoption of a proprietary function reconciliation statement, it shall be filed with the village clerk and published in a newspaper of general circulation within the Village Board's jurisdiction or by mailing to each resident

within the board's jurisdiction. If the difference between the adopted proprietary budget for the previous fiscal year and the actual expenditures and revenues for such fiscal year is greater than 10%, the proprietary function reconciliation statement shall only be adopted following a public hearing.

G. Any income from a proprietary function which is transferred to the general fund of the Village shall be shown as a source of revenue in the budget statement created pursuant to the Nebraska Budget Act.
(Neb. Rev. Stat. §§18-2803 through 18-2808)

SECTION 1-523: PROPERTY TAX; CERTIFICATION OF AMOUNT

The Village Board 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 Village which the Village requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. The county clerk shall place the same on the property tax lists to be collected in the manner provided by law for the collection of county taxes in the county where the Village is situated. In all sales for any delinquent taxes for municipal purposes, if there are other delinquent taxes due from the same person or a lien on the same property, the sale shall be for all the delinquent taxes. Such sales and all sales made under or by virtue of this section or the provision of law herein referred to shall be of the same validity and in all respects be deemed and treated as though such sales had been made for the delinquent county taxes exclusively. Subject to Neb. Rev. Stat. §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. Rev. Stat. §17-702. (Neb. Rev. Stat. §17-702)

SECTION 1-524: ALL-PURPOSE LEVY; ALLOCATION; ABANDONMENT; EXTRAORDINARY LEVIES

The Village Board has decided to certify to the county clerk for collection one all-purpose levy required to be raised by taxation for all municipal purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits in Neb. Rev. Stat. §77-3442, the all-purpose levy shall not exceed the annual levy specified in Neb. Rev. Stat. §19-1309 to be levied upon the taxable valuation of all taxable property in the Village. The amount of the all-purpose levy shall be certified as a single amount for general fund purposes. The Village Board shall allocate the amount raised by the all-purpose levy to the several departments of the Village in its annual budget and appropriation ordinance or in other legal manner as the board deems wisest and best. The Village shall be bound by its election to follow the all-purpose levy method during the ensuing fiscal year but may abandon such method in succeeding fiscal years. Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the Village may be made by the Village in addition to the all-purpose levy. (Neb. Rev. Stat. §§19-1309 through 19-1312)

SECTION 1-525: PROPERTY TAX LEVY AND REQUEST; AUTHORITY TO SET

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

B. The hearing notice shall contain the following information:

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

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

D. Any tax levy which is not in compliance with this section and Neb. Rev. Stat. §77-1601 shall be construed as an unauthorized levy under Neb. Rev. Stat. §77-1606.
(Neb. Rev. Stat. §§77-1601, 77-1601.02)

SECTION 1-526: PROPERTY TAX LEVY; GENERAL REVENUE; OTHER TAXES AND SPECIAL ASSESSMENTS

The Village shall have power to levy taxes for general revenue purposes in any one year not to exceed the amount authorized by state law upon the taxable value of all the taxable property in the Village. The valuation of such property shall be ascertained from the books or assessment rolls of the county assessor. The Village shall have power to levy any other tax or special assessment authorized by law. (Neb. Rev. Stat. §§17-506, 17-507)

SECTION 1-527: PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED

Provisions for property tax levy, maximum levy, and authority to exceed the maximum levy for the support of the Village shall be as provided in Neb. Rev. Stat. §§77-3442 through 77-3444.

Article 6 – Elections

SECTION 1-601: VILLAGE BOARD

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

B. If the election of board members takes place by wards, each nominee shall be a resident and qualified elector of the ward for which he or she is a candidate and only residents of that ward may sign the candidate's nomination petitions.

C. "Elector" as used in this article shall mean a citizen of the United States whose residence is within the state and who is at least 18 years of age or is 17 years of age and will attain the age of 18 years on or before the first Tuesday after the first Monday in November of the then current calendar year.
(Neb. Rev. Stat. §§17-202, 17-203, 32-532, 32-534)

SECTION 1-602: ELECTION OF OFFICERS; CERTIFICATION

A. All village elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide primary and general elections.

B. No later than January 5 of each even-numbered year, for election of village officers in conjunction with the statewide primary election, the Village Board shall certify to the county clerk or election commissioner 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.

C. No later than July 1 of each even-numbered year, for election of village officers in conjunction with the statewide general election, the Village Board shall certify to the county clerk or election commissioner 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.
(Neb. Rev. Stat. §§32-404[2] and [3], 32-556)

SECTION 1-603: JOINT PRIMARY AND GENERAL ELECTIONS

A. The village primary and general election shall be held in accordance with the provisions of Neb. Rev. Stat. Chapter 32. Said elections shall be held in conjunction with the state primary and general election. The county clerk shall have charge of the election and shall have the authority to deputize the village clerk for village election purposes. Commencing with the statewide primary election in 1976 and every two years thereafter, those candidates for chairman and for positions on the Village

Board whose terms will be expiring shall be nominated at the statewide primary election and elected at the statewide general election.

B. All village issues and offices shall be combined on the statewide primary and general election ballots whenever possible. The issuance of separate ballots shall be avoided in a statewide election if village offices or issues can reasonably be combined with the nonpartisan ballot and state law does not require otherwise. Any other election held by the Village shall be held as provided in the Election Act unless otherwise provided by the charter, code, or bylaws of the Village.

(Neb. Rev. Stat. §§32-404, 32-533, 32-556)

SECTION 1-604: JOINT, GENERAL; NOTICE

The notice of election required to be published by the county clerk no less than 42 days prior to an election shall serve as the notice requirement for all village elections which are held in conjunction any other election. (Neb. Rev. Stat. §32-802)

SECTION 1-605: SPECIAL ELECTION

A. Except as provided in Neb. Rev. Stat. §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. Rev. Stat. §§32-952 through 32-959. Any other special election shall be subject to subdivision (B) of this section.

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

C. 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 Village Board. The canvass by the Canvassing Board shall have the same force and effect as if made by the board.

D. 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 coun-

ty clerk at least 50 days prior to the election. A special election may be held by mail as provided in Neb. Rev. Stat. §§32-952 through 32-959. Any special election under the Election Act shall be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically provided. No special election shall be held under the Election Act in April, May, June, October, November, or December of an even-numbered year unless it is held in conjunction with the statewide primary or general election.

(Neb. Rev. Stat. §§32-559, 32-405)

SECTION 1-606: PETITION CANDIDATES

A. Any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot for a partisan office by filing petitions as prescribed in Neb. Rev. Stat. §§32-617 through 32-621, or by nomination by political party convention or committee pursuant to Neb. Rev. Stat. §§32-627 through 32-710.

B. 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 subsection (2) of Neb. Rev. Stat. §32-625 and the candidate files for the office by petition as prescribed herein.

C. Petitions for nomination of candidates for Village Board shall conform to the requirements of Neb. Rev. Stat. §32-628. Petitions shall state the office to be filled and the name and address of the candidate. 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 Village and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. Rev. Stat. §32-607. Petition signers and petition circulators shall conform to the requirements of Neb. Rev. Stat. §§32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing the payment of the filing fee required. Such petitions shall be filed by September 1 in the year of the general election.

D. The number of signatures of registered voters needed to place the name of a nonpartisan candidate upon the ballot for a village office 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 Village, not to exceed 2,000. 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 registered voters voting for governor or president of the United States at the immediately preceding general election in the Village, not to exceed 2,000.

E. The filing officer shall verify the signatures according to Neb. Rev. Stat. §32-631. Within three days after the signatures on a petition for nomination have been

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

F. A candidate placed on the ballot by petition shall be termed a candidate by petition. The words "By Petition" shall be printed upon the ballot after the name of each candidate by petition.

(Neb. Rev. Stat. §§32-616 through 32-618)

SECTION 1-607: CAUCUS CANDIDATES

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

B. The chairman of the caucus at which candidates are nominated shall notify in writing the village clerk of the candidates so nominated, not later than two days following the caucus. The village clerk shall then notify the persons so nominated of their nomination, such notification to take place not later than five days after such caucus. No candidate so nominated shall have his or her name placed upon the ballot unless, not more than ten days after the holding of such caucus, he or she files with the village clerk a written statement accepting the nomination of the caucus and pays the filing fee, if any, for the office for which he or she was nominated.

C. The provisions of Neb. Rev. Stat. §§17-601.01 and 17-601.02 shall not preclude in any manner any person from filing for the offices to which such sections are applicable, either by direct filing or by petition.

(Neb. Rev. Stat. §§17-601.01 through 17-601.03)

SECTION 1-608: WRITE-IN CANDIDATES

Any candidate engaged in or pursuing a write-in campaign shall file a notarized affidavit of his or her intent, together with the receipt for any filing fee, with the filing officer as provided in Neb. Rev. Stat. §32-608 no later than ten days prior to the election. 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 after March 1 and before the general election 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 Neb. Rev. Stat. §§32-617 through 32-621 or by nomination by political party convention or committee pursuant to Neb. Rev. Stat. §§32-627 through 32-710. A candidate who has been defeated as a candidate in the primary election or defeated as a write-in candidate in the primary election shall not be eligible as a write-in candidate for the same office in the general election unless a vacancy on the ballot exists

pursuant to Neb. Rev. Stat. §32-625(2), and the candidate files for the office by petition as prescribed in Neb. Rev. Stat. §§32-617 and 32-618 and files as a write-in candidate or is nominated by political party convention or committee as prescribed herein. A candidate who files a notarized affidavit shall be entitled to all write-in votes for the candidate even if only the last name of the candidate has been written if such last name is reasonably close to the proper spelling. (Neb. Rev. Stat. §§32-615, 32-616)

SECTION 1-609: FILING FOR OFFICE; FORMS

A. *Primary Election.* Any candidate may place his or her name on the primary election ballot by filing a candidate filing form prescribed by the secretary of state as provided in Neb. Rev. Stat. §32-607. If a candidate for an elective office is an incumbent of any elective office, the filing period for filing the candidate filing form shall be between December 1 and February 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. Candidates shall file for office between December 1 and March 1 prior to the date of the primary election.

B. *General Election.* Any candidate for the Village Board 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 Neb. Rev. Stat. §32-607. If a candidate for an elective office is an incumbent of any 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 general election. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after July 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.

C. All candidate filing forms shall contain the information required by Neb. Rev. Stat. §32-607. Said forms shall be filed in the office of the county clerk.
(Neb. Rev. Stat. §§32-606, 32-607)

SECTION 1-610: FILING FEE

A. Except as provided in subsection (C) or (D) of this section, a filing fee shall be paid to the village treasurer by or on behalf of each candidate prior to filing for office. The fee shall be a sum equal to 1% of the annual salary as of November 30 of the year preceding the election for the office for which the candidate files and shall be placed in the general fund of the Village. No candidate filing forms shall be filed until the proper receipt showing payment of such filing fee is presented to the filing officer. On the day of the filing deadline, the village treasurer's office shall remain open to receive filing fees until the hour of the filing deadline.

B. All declared write-in candidates shall pay the filing fees that are required for the office at the time that they present the write-in affidavit to the filing officer. Any undeclared write-in candidate who is nominated or elected by write-in votes shall pay the filing fee required for the office within 10 days after the canvass of votes by the

Canvassing Board and shall file the receipt with the person issuing the certificate of nomination or the certificate of election prior to the certificate being issued.

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

D. No filing fee shall be required of any candidate completing an affidavit requesting to file for elective office *in forma pauperis*. The definition of “pauper” and requirements regarding income and assets shall be as provided in Neb. Rev. Stat. §32-608.

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

SECTION 1-611: BALLOTS

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

SECTION 1-612: EXIT POLLS

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

SECTION 1-613: CERTIFICATE OF NOMINATION OR ELECTION

The county clerk shall, within 40 days after the election, prepare, sign, and deliver a certificate of nomination or a certificate of election to each person whom the Canvassing Board has declared to have received the highest vote for each village office. No person shall be issued a certificate of nomination as a candidate of a political party unless such person has received a number of votes at least equal to 5% of the total ballots cast at the primary election by registered voters affiliated with that political party in the district which the office for which he or she is a candidate serves. (Neb. Rev. Stat. §§32-558, 32-1033)

SECTION 1-614: RECALL PROCEDURE

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

Article 7 – Penal Provision

SECTION 1-701: VIOLATION; PENALTY

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

CHAPTER 2 – BOARDS AND PUBLIC FACILITIES

ARTICLE 1 – AUDITORIUM

SECTION 2-101: RENTALS

SECTION 2-102: RULES AND REGULATIONS

ARTICLE 2 – SWIMMING POOL

SECTION 2-201: OPERATION AND FUNDING

SECTION 2-202: RULES AND REGULATIONS

SECTION 2-203: ADMISSION CHARGE

SECTION 2-204: RENTALS

ARTICLE 3 – SPALDING ECONOMIC DEVELOPMENT GROUP

SECTION 2-301: PURPOSE

SECTION 2-302: ATTRACTING BUSINESSES

SECTION 2-303: SUPPORTING EXISTING BUSINESSES

SECTION 2-304: INVESTING IN THE COMMUNITY

ARTICLE 4 – BOARD OF ZONING ADJUSTMENT

SECTION 2-401: FUNCTIONS DEFINED

SECTION 2-402: ESTABLISHMENT

SECTION 2-403: APPOINTMENT AND TERMS

SECTION 2-404: MEETINGS

SECTION 2-405: DUTIES AND POWERS

SECTION 2-406: CRITERIA FOR GRANTING VARIANCES

SECTION 2-407: COURTS

ARTICLE 5 – PENAL PROVISION

SECTION 2-501: VIOLATION; PENALTY

CHAPTER 2 – BOARDS AND PUBLIC FACILITIES

SECTION 2-101: RENTALS

SECTION 2-102: RULES AND REGULATIONS

SECTION 2-201: OPERATION AND FUNDING

SECTION 2-202: RULES AND REGULATIONS

SECTION 2-203: ADMISSION CHARGE

SECTION 2-204: RENTALS

SECTION 2-301: PURPOSE

SECTION 2-302: ATTRACTING BUSINESSES

SECTION 2-303: SUPPORTING EXISTING BUSINESSES

SECTION 2-304: INVESTING IN THE COMMUNITY

SECTION 2-401: FUNCTIONS DEFINED

SECTION 2-402: ESTABLISHMENT

SECTION 2-403: APPOINTMENT AND TERMS

SECTION 2-404: MEETINGS

SECTION 2-405: DUTIES AND POWERS

SECTION 2-406: CRITERIA FOR GRANTING VARIANCES

SECTION 2-407: COURTS

SECTION 2-501: VIOLATION; PENALTY

CHAPTER 2 – BOARDS AND PUBLIC FACILITIES

Article 1 – Auditorium

SECTION 2-101: RENTALS

The Village Board may make a reasonable rental charge and a damage/cleaning deposit amount for use of the village auditorium by any person or organization. Rental rates may be structured for classes of persons and organizations in a reasonable manner; provided, nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons and organizations for rental purposes. All damage suffered to the community center during any rental shall be assessed against the person or organization responsible for the rental thereof or the amount shall be deducted from the damage deposit. (Neb. Rev. Stat. §17-953)

SECTION 2-102: RULES AND REGULATIONS

The Village Board shall have the power and authority to enact bylaws, rules, and regulations for the protection of the community center and the safety of those using the said facilities. The board may provide suitable penalties for the violation of such bylaws, rules, and regulations. All rental fees, rules, and regulations shall be as set by resolution by the board and kept on file in the village office. (Neb. Rev. Stat. §17-953)

Article 2 – Swimming Pool

SECTION 2-201: OPERATION AND FUNDING

A. The Village owns and manages the swimming pool. The Village Board, for the purpose of defraying the cost of the management, maintenance, and improvements of the swimming pool, 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 Village that is subject to taxation. The revenue from the said tax shall be known as the swimming pool fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the swimming pool. The swimming pool fund shall at all times be in the custody of the village treasurer.

B. The Village Board shall manage the swimming pool and shall have the power and authority to hire the swimming pool manager and such employees as it may deem necessary, and shall pass such rules and regulations for the operation of the swimming pool as may be proper for its efficient operation.

(Neb. Rev. Stat. §§17-948, 17-951, 17-952)

SECTION 2-202: RULES AND REGULATIONS

The Village Board shall have the power and authority to enact bylaws, rules, and regulations for the protection of those using the swimming pool and for the efficient management thereof. Suitable penalties may be provided for the violation of such bylaws, rules, and regulations, subject to review and supervision. (Neb. Rev. Stat. §17-949)

SECTION 2-203: ADMISSION CHARGE

The Village Board, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the swimming pool, may make a reasonable admission charge for its use by any person. The said charges shall be on file at the office of the village clerk and shall also be posted in a conspicuous place at the pool for public inspection. Such rates may be structured for classes of persons in a reasonable manner; provided, nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons for admission charges. (Neb. Rev. Stat. §17-949)

SECTION 2-204: RENTALS

The Village Board shall have the authority to rent the swimming pool to such organizations and other persons as it may in its discretion see fit. The board shall prescribe rules and regulations for such rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. Such fees and other costs shall be set by the Village Board from time to time by resolution, kept on file at the office of the village clerk and posted in a conspicuous place at the pool. (Neb. Rev. Stat. §17-949)

Article 3 – Spalding Economic Development Group

SECTION 2-301: PURPOSE

Spalding Economic Development, Inc., dba Spalding Economic Development Group, plans to conduct activities related to attracting businesses, supporting existing ones, developing infrastructure, and promoting community assets, all aimed at improving the economic well-being and quality of life for the community of Spalding.

SECTION 2-302: ATTRACTING BUSINESSES

Attracting businesses to Spalding will involve:

A. Promotional Strategies: Marketing the community's advantages and assets to potential investors and businesses.

B. Targeted Business Searches: Identifying businesses that could benefit the community and its future.

C. Encouraging Former Residents: Attracting successful entrepreneurs and investors to return and invest.

D. Innovation and Manufacturing Hubs: Creating spaces for innovation and manufacturing to attract businesses.

SECTION 2-303: SUPPORTING EXISTING BUSINESSES

Supporting existing businesses will involve:

A. Business Retention and Expansion: Providing resources and support to help existing businesses grow and thrive.

B. Access to Financing: Facilitating access to loans, grants, and other financial resources for businesses.

C. Workforce Development: Investing in training and education programs to ensure a skilled workforce.

D. Microenterprise Development: Supporting the development and expansion of small businesses.

E. Business Assistance Programs: Offering technical assistance, mentorship, and other support services to businesses.

SECTION 2-304: INVESTING IN THE COMMUNITY

Investing in infrastructure and community development will involve:

A. Community Amenities: Developing parks, trails, and other recreational facilities to improve quality of life.

B. Affordable Housing: Ensuring access to safe and affordable housing for residents.

C. Education and Training: Investing in education and training programs to improve workforce skills.

D. Tourism Development: Promoting tourism to bring revenue and economic

activity to the community.

E. Real Estate Development: Promoting the development of commercial and residential properties.

F. Financial Services: Providing businesses and residents with access to financial services.

Article 4 – Board of Zoning Adjustment

SECTION 2-401: FUNCTIONS DEFINED

The functions of the Board of Zoning Adjustment, partly administrative and partly judicial, are defined and limited by state-enabling legislation and by provisions of the local Zoning Regulations. This quasi-judicial body's powers include hearing and deciding appeals, map interpretations and granting variances from the Zoning Regulations. Under Nebraska statutes, the Board of Zoning Adjustment is not a policy-making body nor is it intended to be. The board is the body which provides flexibility in the administration of the Zoning Regulations.

SECTION 2-402: ESTABLISHMENT

Under Neb. Rev. Stat. Chapter 19, Article 9, Section 19-907, the Village Board has created the Board of Zoning Adjustment by ordinance. Statutory references for municipal boards of zoning adjustment are Sections 19-907 to 19-912. Sections 8-152 to 8-154 of the zoning ordinance detail the responsibilities and procedures of the board.

SECTION 2-403: APPOINTMENT AND TERMS

A. The Village Board has appointed five members to the Zoning Board of Adjustment. An additional member shall also be appointed, designated as an alternative, who shall serve only in the absence of a regular member. One member of the board must also be a member of the Planning Commission. Any member may, after a public hearing, be removed for cause by the Village Board.

B. Members of the board shall serve terms of three years each. They shall serve without compensation and shall hold no other municipal office, except when appointed from the Planning Commission membership.

C. The board may be funded from time to time out of the general fund by the Village Board.

SECTION 2-404: MEETINGS

A. Meetings of the board shall be held at such times as the Village Board may designate or at the call of the chairperson. All meetings shall be open to the public and adhere to the provisions of the state public meetings law.

B. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

C. The board must hold a public hearing before deciding upon applications for variances.

D. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of any governmental official, or to decide in favor of the applicant to effect any variance from the Zoning Regulations.

SECTION 2-405: DUTIES AND POWERS

The Zoning Board of Adjustment has the following powers as authorized by state legislation and local ordinance:

A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by a governmental official based on or made in enforcement of the zoning ordinance or relating to the location or soundness of structures.

B. To hear and decide, in accordance with the provisions of the Zoning Regulations, request for interpretation of any map.

C. To hear and decide applications for variance from the Zoning Regulations.

D. To summon witnesses, administer oaths and compel the giving of testimony at public hearings.

SECTION 2-406: CRITERIA FOR GRANTING VARIANCES

A. The criteria and conditions which must exist for granting a variance are identified by state statute and in the Zoning Regulations. The variance is intended as a device for adjustment where the ordinance creates unnecessary hardship in unusual cases, to give affected property owners rights as nearly equal as possible to those of others in the same district.

B. A heavy case load on variances may indicate that the ordinance or one of its specific regulations is not appropriate, the board is malfunctioning, or both. The need for variances should be minor and variances should be granted sparingly. Under no circumstances can the board grant a variance to permit a use not generally or by special exception allowed in the zoning district.

C. A variance is granted for the property and not for the owner of the property. The variance is thus in effect perpetually and remains with the property and whatever structure may be constructed in the future.

D. The following are general guidelines which can be used by the board in deciding upon applications for variances. These general guidelines are to be used in conjunction with the criteria and conditions specified in the Zoning Regulations.

1. A variance is not the appropriate remedy for a general condition. If this is the case, a change in the Zoning Regulations would be the appropriate action.
2. A self-inflicted hardship is not grounds for a variance. For example, the request for a variance is based upon some action of the applicant, such as the selling of a portion of a lot which does not comply to the existing district regulations, as opposed to a case where the area or width of a lot was reduced because land was taken for street widening.
3. Personal hardship is not grounds for a variance. The hardship must relate to the physical character of the property.
4. Economic hardship in itself is not grounds for a variance. It may be considered as an element but there must be other compelling considerations. In general, the law guarantees that police power measures will not

prevent a property owner from obtaining some reasonable return on his or her land, however that may be defined. One of the most common statements in variance law is that purely financial hardship – i.e., restriction to a less profitable use – is not sufficient to justify a variance. The granting of such variance must be based upon a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.

SECTION 2-407: COURTS

A. Any decision of the board may be appealed to the district court as provided by Neb. Rev. Stat. Chapter 19, Article 9, Section 19-912.

B. Sample rules, forms and notices which may be utilized by the Board of Zoning Adjustment are included in Appendix 7 of the Procedural Manual.

Article 5 – Penal Provision

SECTION 2-501: VIOLATION; PENALTY

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

CHAPTER 3 – MISDEMEANORS

ARTICLE 1 – GENERAL MISDEMEANORS

- SECTION 3-101: OBSTRUCTING AN OFFICER**
- SECTION 3-102: IMPERSONATING AN OFFICER**
- SECTION 3-103: HINDERING OR RESISTING ARREST**
- SECTION 3-104: RESISTING ARREST WITHOUT THE USE OF A DEADLY OR DANGEROUS WEAPON**
- SECTION 3-105: DISCHARGE OF FIREARM**
- SECTION 3-106: DISCHARGE OF DANGEROUS PROJECTILES**
- SECTION 3-107: FALSE REPORTING**
- SECTION 3-108: STALKING**
- SECTION 3-109: CRIMINAL TRESPASS**
- SECTION 3-110: PUBLIC INDECENCY**
- SECTION 3-111: WINDOW PEEPING**
- SECTION 3-112: SEX OFFENDERS AND PREDATORS**
- SECTION 3-113: CRIMINAL MISCHIEF**
- SECTION 3-114: THEFT**
- SECTION 3-115: THREATS; ASSAULT IN THE THIRD DEGREE**
- SECTION 3-116: DISORDERLY CONDUCT**
- SECTION 3-117: DISTURBING AN ASSEMBLY**
- SECTION 3-118: DISTURBING THE PEACE**
- SECTION 3-119: LOUD MUSIC, RECORDINGS, RADIOS AND SIMILAR DEVICES; EXCEPTIONS**
- SECTION 3-120: MISREPRESENTATION BY MINOR**
- SECTION 3-121: MINOR IN POSSESSION**
- SECTION 3-122: LITTERING**
- SECTION 3-123: APPLIANCE OUTDOORS**
- SECTION 3-124: OBSTRUCTING WATER FLOW**
- SECTION 3-125: INJURY OR REMOVAL OF PUBLIC AND PRIVATE PROPERTY**
- SECTION 3-126: INJURY TO PLANTS AND TREES**
- SECTION 3-127: DEAD, DYING, OR DISEASED TREES**
- SECTION 3-128: PARKS; INJURY TO PROPERTY; LITTERING**

ARTICLE 2 – DOGS

- SECTION 3-201: DEFINITIONS**

SECTION 3-202: RABIES VACCINATION

SECTION 3-203: LICENSING; RABIES CERTIFICATE; FEE

SECTION 3-204: NUMBER OF DOGS ALLOWED; KENNELS

SECTION 3-205: LOST TAG

SECTION 3-206: WRONGFUL LICENSING

SECTION 3-207: COLLAR OR HARNESS; OWNER'S ID; LICENSE TAG

SECTION 3-208: RUNNING AT LARGE

SECTION 3-209: DAMAGE; LIABILITY OF OWNER

SECTION 3-210: BARKING AND OFFENSIVE BEHAVIOR; COMPLAINT

SECTION 3-211: FEMALE IN SEASON

SECTION 3-212: FIGHTING DOGS

SECTION 3-213: RABIES SUSPECTED; IMPOUNDMENT

SECTION 3-214: DANGEROUS DOGS; DEFINITIONS

SECTION 3-215: DANGEROUS DOGS; CONFINED; WARNING SIGN

SECTION 3-216: DANGEROUS DOGS; RESTRAINED

SECTION 3-217: DANGEROUS DOGS; FAILURE TO COMPLY

SECTION 3-218: DANGEROUS DOGS; VIOLATION; PRIOR CONVICTION

SECTION 3-219: DANGEROUS DOGS; ADDITIONAL REGULATIONS

SECTION 3-220: IMPOUNDMENT

SECTION 3-221: INTERFERENCE WITH ANIMAL CONTROL

ARTICLE 3 – ANIMALS GENERALLY

SECTION 3-301: ANIMALS PROHIBITED

SECTION 3-302: RUNNING AT LARGE

SECTION 3-303: ENCLOSURES

SECTION 3-304: RABIES SUSPECTED; CAPTURE IMPOSSIBLE

ARTICLE 4 – NUISANCES

SECTION 3-401: PUBLIC NUISANCES PROHIBITED

SECTION 3-402: GENERALLY DEFINED

SECTION 3-403: SPECIFICALLY DEFINED

SECTION 3-404: NOTICE PROCEDURE; ABATEMENT

SECTION 3-405: JURISDICTION

SECTION 3-406: ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL

ARTICLE 5 – DANGEROUS BUILDINGS

SECTION 3-501: DETERMINATION; DEFINITIONS

SECTION 3-502: BUILDING INSPECTOR

SECTION 3-503: STANDARDS

SECTION 3-504: UNLAWFUL MAINTENANCE

SECTION 3-505: NUISANCE; PROCEDURE

SECTION 3-506: FAILURE TO COMPLY

SECTION 3-507: DISPUTES

SECTION 3-508: APPEAL

SECTION 3-509: IMMEDIATE HAZARD

ARTICLE 6 – PENAL PROVISIONS

SECTION 3-601: VIOLATION; PENALTY

SECTION 3-602: ABATEMENT OF NUISANCE

CHAPTER 3 – MISDEMEANORS

Article 1 – General Misdemeanors

SECTION 3-101: OBSTRUCTING AN OFFICER

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

SECTION 3-102: IMPERSONATING AN OFFICER

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

SECTION 3-103: HINDERING OR RESISTING ARREST

It shall be unlawful for any person in this village to hinder, obstruct, or resist any police officer in making any arrest or performing any duty of his or her office. (Neb. Rev. Stat. §28-904)

SECTION 3-104: RESISTING ARREST WITHOUT THE USE OF A DEADLY OR DANGEROUS WEAPON

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

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

SECTION 3-105: DISCHARGE OF FIREARM

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

SECTION 3-106: DISCHARGE OF DANGEROUS PROJECTILES

It shall be unlawful for any person to discharge a slingshot, paint ball gun, blow gun, air rifle, BB gun, or other like instrument capable of launching a dangerous projectile therefrom at any time or under any circumstances within the Village. (Neb. Rev. Stat. §17-207)

SECTION 3-107: FALSE REPORTING

It shall be unlawful for any person to:

A. 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;

B. Furnish information he or she knows to be false, alleging the existence of (1) a need for the assistance of an emergency medical service or out-of-hospital emergency care provider or (2) an emergency in which human life or property are in jeopardy to any hospital, emergency medical service, or other person or governmental agency;

C. Furnish any information or cause such 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 department;

D. 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;

E. 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 such investigation.

(Neb. Rev. Stat. §28-907)

SECTION 3-108: STALKING

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

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

1. "Harass" means to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens, or intimidates the person and which serves no legitimate purpose;
2. "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of pur-

pose, including a series of acts of following, detaining, restraining the personal liberty of, or stalking the person or telephoning, contacting, or otherwise communicating with the person;

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

(Neb. Rev. Stat. §§28-311.02 through 28-311.04)

SECTION 3-109: CRIMINAL TRESPASS

A. A person commits first degree criminal trespass if he or she:

1. 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. 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. For purposes of this section, "public power infrastructure facility" shall mean a power plant, an electrical station or substation, or any other facility which is used by a public power supplier as defined in Neb. Rev. Stat. §70-2103 to support the generation, transmission, or distribution of electricity and which is surrounded by a fence or is otherwise enclosed.

B. A person commits second degree criminal trespass if, knowing that he or she is not licensed or privileged to do so, he or she enters or remains in any place as to which notice against trespass is given by:

1. Actual communication to the actor; or
2. Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or
3. Fencing or other enclosure manifestly designed to exclude intruders except as otherwise provided in subsection (A).

(Neb. Rev. Stat. §§28-520, 28-521)

SECTION 3-110: PUBLIC INDECENCY

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

- A. An act of sexual penetration as defined by Neb. Rev. Stat. §28-318(5);
- B. An exposure of the genitals of the body done with intent to affront or alarm any person; or
- C. A lewd fondling or caressing of the body of any other person of the same or opposite sex.
(Neb. Rev. Stat. §28-806)

SECTION 3-111: WINDOW PEEPING

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

SECTION 3-112: SEX OFFENDERS AND PREDATORS

- A. For purposes of this ordinance:
 - 1. "Childcare facility" means a facility licensed pursuant to the Child Care Licensing Act;
 - 2. "Reside" means to sleep, live, or dwell at a place, which may include more than one location and may be mobile or transitory;
 - 3. "Residence" means a place where an individual sleeps, lives, or dwells, which may include more than one location and may be mobile or transitory;
 - 4. "School" means a public, private, denominational, or parochial school which meets the requirements for state accreditation or approval;
 - 5. "Sex offender" means an individual who has been convicted of a crime listed in Neb. Rev. Stat. §29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act; and
 - 6. "Sexual predator" means an individual required to register under the Sex Offender Registration Act, who has committed an aggravated offense as defined in Neb. Rev. Stat. §29-4001.01 and who has victimized a person 18 years of age or younger.
- B. It is unlawful for any sex offender or sexual predator to reside within 500 feet from a school or childcare facility. For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or childcare facility.

C. This ordinance shall not apply to a sex offender or sexual predator who (1) resides within a prison or correctional or treatment facility operated by the state or a political subdivision; (2) established a residence before July 1, 2006, and has not moved from that residence; or (3) established a residence after July 1, 2006, and the school or childcare facility triggering the restriction was established after the initial date of the sex offender's or sexual predator's residence at that location.

Neb. Rev. Stat. §§29-4016, 29-4017)

SECTION 3-113: CRIMINAL MISCHIEF

It shall be unlawful for any person to damage property of another intentionally or recklessly, tamper with property of another intentionally or recklessly so as to endanger any person or property or cause another to suffer pecuniary loss by deception or threat intentionally or maliciously, provided that the value of the property involved is under \$5,000.00. If the value is \$5,000.00 or more, the offense is a felony and not subject to prosecution under this code. (Neb. Rev. Stat. §28-519)

SECTION 3-114: THEFT

A. For purposes of this section the definitions found in Neb. Rev. Stat. §28-509 shall apply; and the offenses described in subsections (B) through (H) shall exist when the value of the thing involved is under \$500.00.

B. A person commits theft if he or she takes or exercises control over movable property of another with the intent to deprive him or her thereof. A person commits theft if he or she transfers immovable property of another or any interest therein with the intent to benefit himself or herself or another not entitled thereto. Except as provided for rental or lease of a motor vehicle in Neb. Rev. Stat. §(28-511(4), it shall be presumed that a lessee's failure to return leased or rented movable property to the lessor after the expiration of a written lease or written rental agreement is done with intent to deprive if such lessee has been mailed notice by certified mail that such lease or rental agreement has expired and he or she has failed within ten days after such notice to return such property.

C. A person commits theft if he or she obtains property of another by deception as defined in Neb. Rev. Stat. §28-512.

D. A person commits theft if he or she obtains property of another by threatening to:

1. Inflict bodily injury on anyone or commit any other criminal offense;
2. Accuse anyone of a criminal offense;
3. Expose any secret tending to subject any person to hatred, contempt or ridicule or to impair his or her credit or business repute;
4. Take or withhold action as an official or cause an official to take or withhold action;
5. Bring about or continue to strike, boycott, or other collective unofficial

action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or

6. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

E. It is an affirmative defense to prosecution based on subdivisions (D)(2) through (4) herein that the property obtained by threat of accusation, exposure, lawsuit or other invocation of official action was honestly claimed as restitution or indemnification for harm done in the circumstances to which such accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful services.

F. A person who comes into control of property of another that he or she knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient commits theft if, with intent to deprive the owner thereof, he or she fails to take reasonable measures to restore the property to a person entitled to have it.

G. A person commits theft if he or she obtains services which he or she knows are available only for compensation, by deception or threat or by false token or other means to avoid payment for the service. Services include labor, professional service, telephone service, electric service, cable television service, or other public service, accommodation in hotels, restaurants, or elsewhere, admission to exhibitions, and use of vehicles or other movable property. When compensation for service is ordinarily paid immediately upon the rendering of such service, as in the case of restaurants and hotels, refusal to pay or absconding without payment or offer to pay gives rise to presumption that the service was obtained by deception as to intention to pay. Further, a person commits theft if, having control over the disposition of services of others to which he or she is not entitled, he or she diverts such services to his or her own benefit or to the benefit of another not entitled thereto.

H. A person commits theft if he or she receives, retains or disposes of stolen movable property of another knowing that it has been stolen, or believing that it has been stolen, unless the property is received, retained, or disposed with intention to restore it to the owner.

(Neb. Rev. Stat. §§28-511 through 28-515, 28-517, 28-518)

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

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

SECTION 3-116: DISORDERLY CONDUCT

Any person who shall knowingly start a fight, fight, commit assault or battery, make unnecessary noise, or otherwise conduct himself in such a way as to breach the peace shall be deemed to be guilty of an offense. (Neb. Rev. Stat. §§17-129, 17-556)

SECTION 3-117: DISTURBING AN ASSEMBLY

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

SECTION 3-118: DISTURBING THE PEACE

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

SECTION 3-119: LOUD MUSIC, RECORDINGS, RADIOS AND SIMILAR DEVICES; EXCEPTIONS

It shall be unlawful for any person to operate any radio, tape player, compact disc player, stereophonic sound system, or similar device which reproduces or amplifies radio broadcasts or musical recordings in or upon any street, alley, or other public place in such a manner as to be audible to other persons more than 50 feet from the source. Persons operating such devices while participating in licensed or permitted activities, such as parades, shall not be deemed in violation of this section. (Neb. Rev. Stat. §17-556)

SECTION 3-120: MISREPRESENTATION BY MINOR

It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-168.06, to obtain or attempt to obtain alcoholic liquor by misrepresentation of age or by any other method in any place where alcoholic liquor is sold. (Neb. Rev. Stat. §§53-180.01, 53-180.05)

SECTION 3-121: MINOR IN POSSESSION

It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-168.06, to 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, or highways of the Village or inside any vehicle while in or on any other place, including but not limited to the public streets, alleys, or highways of the Village or upon property owned by the Village, 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. 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. Rev. Stat. §53-180.02)

SECTION 3-122: LITTERING

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

cle or container installed on such property for such purpose.

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

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

1. "Litter" shall include 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.
2. "Waste material" shall mean any material appearing in a place or in a context not associated with that material's function or origin.

(Neb. Rev. Stat. §§17-573, 28-523)

SECTION 3-123: APPLIANCE OUTDOORS

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

SECTION 3-124: OBSTRUCTING WATER FLOW

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

SECTION 3-125: INJURY OR REMOVAL OF PUBLIC AND PRIVATE PROPERTY

No person in the Village shall willfully, maliciously, wantonly, negligently, or otherwise injure, deface, destroy, or remove real property or improvements thereto or moveable or personal property belonging to the Village or to any person in the Village.

SECTION 3-126: INJURY TO PLANTS AND TREES

It shall be unlawful for any person to purposely or carelessly and without lawful authority to cut down, carry away, injure, break down, or destroy any trees or their fruit or any shrub, plant, flower, or grass on any public or private property. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by it, shall make an application to the Village Board and the written permit of the board in accordance with its decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.

SECTION 3-127: DEAD, DYING, OR DISEASED TREES

A. It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead, dying, or diseased trees within the right of way of streets or on

private property within the corporate limits of the Village. For the purpose of carrying out the provisions of this section, the utilities superintendent shall have the authority to enter upon private property to inspect the trees thereon.

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

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

(Neb. Rev. Stat. §§18-1720, 28-1321)

SECTION 3-128: PARKS; INJURY TO PROPERTY; LITTERING

It shall be unlawful for any person to maliciously or willfully cut down, injure, or destroy any tree, plant, or shrub; to injure or destroy any sodded or planted area; or to injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the village parks and recreational areas. No person shall commit any waste on or litter the village parks or other public grounds. (Neb. Rev. Stat. §§17-563, 28-523)

Article 2 – Dogs

SECTION 3-201: DEFINITIONS

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

“Designated code enforcement authority” shall mean the person appointed in Chapter 1, Section 1-413 to investigate and document ordinance violations.

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

SECTION 3-202: RABIES VACCINATION

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

SECTION 3-203: LICENSING; RABIES CERTIFICATE; FEE

A. Any person who shall own, keep, or harbor a dog over the age of six months within the Village shall within 30 days after acquisition of the said dog acquire a license for each animal annually by or before April 1 each year. Application shall be made upon a printed form provided by the Village, upon which the owner shall state his or her name and address and the name, breed, color, and sex of each dog owned and kept by him or her. A certificate stating that the dog has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown. If the dog has been spayed or neutered, a statement signed by a veterinarian verifying the spaying or neutering must be presented.

B. Upon payment of the license as set by resolution of the Village Board, the village clerk shall issue to the dog owner a license certificate and a metallic tag for each animal so licensed. The Village shall, in addition to the license tax imposed, collect from the licensee a fee of \$1.25. The clerk shall retain 3¢ from the said fee and remit the balance to the state treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund. The 3¢ collected shall be credited to the general fund along with the license fees.

C. The said dog tax shall be delinquent from and after July 15; provided, the possessor of any dog brought into or harbored within the corporate limits subsequent to July 15 shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within 10 days thereafter. It shall be the duty of the village clerk to issue tags of a suitable design that are different in appearance each year.

D. The metallic tag shall be properly attached to the collar or harness of every dog so licensed and shall entitle the owner to keep or harbor the said animal until March 31 of the following year. Said licenses shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog.

E. Every service animal shall be licensed 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 a license tax as prescribed herein. (Neb. Rev. Stat. §§17-526, 54-603)

SECTION 3-204: NUMBER OF DOGS ALLOWED; KENNELS

It shall be unlawful to own, keep, or harbor more than three dogs without obtaining a kennel license from the State of Nebraska. Kennel operators shall confine each dog to a kennel or fenced area upon the owner's premises at all times. Kennel license fees are in lieu of individual dog license fees and shall be in effect for one year from the date of issuance. The annual fee for a kennel license shall be set by resolution of the Village Board and filed in the office of the village clerk for public inspection.

SECTION 3-205: LOST TAG

In the event that a licensing tag is lost and upon satisfactory evidence that the original tag was issued in accordance with the provisions herein, the village clerk shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid and shall charge and collect a fee for each duplicate tag so issued. Such fee shall be as set by resolution of the Village Board and placed on file in the office of the village clerk. (Neb. Rev. Stat. §§17-526, 54-603)

SECTION 3-206: WRONGFUL LICENSING

It shall be unlawful for the owner, keeper, or harbinger of any dog to permit or allow such dog to wear any license, metallic tag, or other village identification other than that issued by the village clerk; nor shall the owner, keeper, or harbinger wrongfully and knowingly license an unspayed female dog or unneutered male dog with a license prescribed for a spayed female dog or neutered male dog. (Neb. Rev. Stat. §17-526)

SECTION 3-207: COLLAR OR HARNESS; OWNER'S ID; LICENSE TAG

A. It shall be the duty of the owner of every dog to securely place upon the neck of such dog a good and sufficient collar or harness with a metallic plate attached

which shall be plainly inscribed with the name of such owner. The village license tag shall also be attached. Any dog found running at large upon the streets and public grounds of the Village without a collar or harness is hereby declared a public nuisance. Such dogs found running at large shall be killed or impounded in the village animal shelter by the designated code enforcement authority.

B. It shall be unlawful for any person to remove or cause to be removed the collar, harness, ID tag or license tag from any dog without the consent of the owner, keeper, or possessor thereof.

(Neb. Rev. Stat. §§17-526 54-605)

SECTION 3-208: RUNNING AT LARGE

It shall be unlawful for the owner of any dog or cat to allow such dog or cat to run at large at any time within the corporate limits of the Village. It shall be the duty of the animal control authority to cause any dog or cat found to be running at large within the Village to be taken up and impounded as provided in Section 3-220. "Running at large" shall mean a dog or cat was found off the premises of the owner and not under control of the owner or a responsible person by leash, cord, chain, wire, rope, cage, or other suitable means of physical restraint. (Neb. Rev. Stat. §17-526)

SECTION 3-209: DAMAGE; LIABILITY OF OWNER

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

SECTION 3-210: BARKING AND OFFENSIVE BEHAVIOR; COMPLAINT

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

SECTION 3-211: FEMALE IN SEASON

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

SECTION 3-212: FIGHTING DOGS

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

SECTION 3-213: RABIES SUSPECTED; IMPOUNDMENT

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

SECTION 3-214: DANGEROUS DOGS; DEFINITIONS

A. "Dangerous dog" shall mean any dog that, according to the records of an animal control authority:

1. Has killed a human being;
2. Has inflicted injury on a human being that requires medical treatment;
3. Has killed a domestic animal without provocation; or
4. Has been previously determined to be a potentially dangerous dog by an animal control authority, the owner has received notice from an animal control authority or an animal control officer of such determination, and the dog inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals.

B. "Potentially dangerous dog" shall mean

1. Any dog that, when unprovoked, (a) inflicts an injury on a human being that does not require medical treatment, (b) injures a domestic animal, or (c) chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or

2. Any specific dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

C. Notwithstanding the foregoing, a dog shall not be defined as a dangerous dog if:

1. The threat, any injury that is not a severe injury, or the damage was sustained by a person who (a) at the time was committing a willful trespass as defined in state statutes or any other tort upon the property of the owner of the dog; (b) at the time was tormenting, abusing, or assaulting the dog; (c) has in the past been observed or reported to have tormented or assaulted the dog; or (d) at the time was committing or attempting to commit a crime; or
2. The dog is a trained dog assisting a law enforcement officer engaged in law enforcement duties.

D. "Domestic animal" shall mean a cat, a dog, or livestock.

E. "Owner" shall mean any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a dog.

F. "Severe injury" shall mean any physical injury that results in disfiguring lacerations requiring multiple sutures, cosmetic surgery, or one or more broken bones or that creates a potential danger to the life or health of the victim.

(Neb. Rev. Stat. §54-617)

SECTION 3-215: DANGEROUS DOGS; CONFINED; WARNING SIGN

While unattended on the owner's property, a dangerous dog shall be securely confined in a humane manner indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground at a depth of at least one foot. The pen or structure shall also protect the dog from the elements. The pen or structure shall be at least 10 feet from any property line of the owner. The owner of a dangerous dog shall post a warning sign on the property where the dog is kept that is clearly visible and that informs persons that a dangerous dog is on the property. Each warning sign shall be no less than 10 inches by 12 inches and shall contain the words "Warning" and "Dangerous Animal" in high-contrast lettering at least 3 inches high on a black background. (Neb. Rev. Stat. §54-619)

SECTION 3-216: DANGEROUS DOGS; RESTRAINED

No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless the animal is restrained securely by a chain or leash. (Neb. Rev. Stat. §54-618)

SECTION 3-217: DANGEROUS DOGS; FAILURE TO COMPLY

Any dangerous dog may be immediately confiscated by a designated code enforcement authority if the owner is in violation of this article. The owner shall be responsible for the reasonable costs incurred by the animal control authority for the care of a dangerous dog confiscated by a designated code enforcement authority or for the destruction of any dangerous dog if the action by the animal control authority is pursuant to law and if the owner violated this article. In addition to any other penalty, a court may order the animal control authority to dispose of a dangerous dog in an expeditious and humane manner. (Neb. Rev. Stat. §54-620)

SECTION 3-218: DANGEROUS DOGS; VIOLATION; PRIOR CONVICTION

If a dangerous dog belonging to an owner with a prior conviction under this section attacks or bites a person or another domestic animal, the owner shall be guilty of a misdemeanor. In addition, the dangerous dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

SECTION 3-219: DANGEROUS DOGS; ADDITIONAL REGULATIONS

Nothing in this article shall be construed to restrict or prohibit the Village Board from establishing and enforcing laws or ordinances at least as stringent as the provisions of this article. (Neb. Rev. Stat. §54-624)

SECTION 3-220: IMPOUNDMENT

A. It shall be the duty of the designated code enforcement authority to capture, secure, and remove in a humane manner to the designated village animal shelter any dog violating any of the provisions of this article. Notice of impoundment of any dog, including any significant marks or identification, shall be posted at the office of the village clerk as public notification of such impoundment; provided, if the owner of the dog is known, the clerk may also attempt to personally notify him or her of the impoundment. The owner may reclaim his or her dog by contacting the village clerk for information.

B. Any dog may be reclaimed by its owner during the period of impoundment by payment of a general impoundment fee and daily board fee as set by resolution of the Village Board and filed in the office of the village clerk. The owner shall then be required to comply with the licensing and rabies vaccination requirements within 72 hours after release. Any dog may be reclaimed by its owner during the period of impoundment by payment of the costs of impoundment.

C. If the dog is not claimed at the end of the required waiting period after public notice has been given, the village police may dispose of the dog in accordance with the applicable rules and regulations pertaining to the same; provided, if a suitable home, in the judgment of the village police, can be found for any such dog within the

Village, the said dog shall be turned over to that person and the new owner shall then be required to pay all fees and meet all licensing and vaccinating requirements provided in this article.

D. The Village shall acquire legal title to any unlicensed dog impounded in the shelter for a period longer than the required waiting period after giving notice. All dogs shall be destroyed and buried in the summary and humane manner as prescribed by the designated code enforcement authority unless a suitable home can be found for such dog as provided in subsection (C) above.

(Neb. Rev. Stat. §17-548)

SECTION 3-221: INTERFERENCE WITH ANIMAL CONTROL

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

Article 3 – Animals Generally

SECTION 3-301: ANIMALS PROHIBITED

Large animals such as cattle, horses and mules shall be prohibited within the Village. Only the following smaller animals shall be allowed: goats, chickens, and ducks.

SECTION 3-302: RUNNING AT LARGE

A. It shall be unlawful for the owner, keeper, or harbinger of any permitted animal or any person having the charge, custody, or control thereof to allow such animals to run at large on any of the public ways and property or upon the property of another or to be tethered or staked out in such a manner so as to allow such animal to reach or pass into any public way.

B. It shall be unlawful for any person to allow chickens, turkeys, geese, or any other fowls to run at large within the corporate limits, except in enclosed places on private property.

(Neb. Rev. Stat. §17-547)

SECTION 3-303: ENCLOSURES

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

SECTION 3-304: RABIES SUSPECTED; CAPTURE IMPOSSIBLE

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

Article 4 – Nuisances

SECTION 3-401: PUBLIC NUISANCES PROHIBITED

It shall be the duty of every owner, occupant, lessee, or mortgagee of real estate in the Village to keep such real estate free of public nuisances. (Neb. Rev. Stat. §§17-207, 18-1720, 28-1321)

SECTION 3-402: GENERALLY DEFINED

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 either:

- 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 Village;

E. In any way renders other persons insecure in life or the use of property; or

F. Essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others.

(Neb. Rev. Stat. §18-1720)

SECTION 3-403: SPECIFICALLY DEFINED

The maintaining, using, placing, depositing, leaving or permitting of any of the following specific acts, omissions, places, conditions and things are hereby declared to be nuisances:

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. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats or which are foul or malodorous.

C. Filthy, littered or trash-covered cellars, house yards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings or premises.

D. 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 Village.

E. Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish, or any waste vegetable or animal matter in any quantity; provided, nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the Village nor the dumping of non-putrefying waste in a place and manner approved by the health officer.

F. 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 is kept in covered bins or galvanized iron receptacles.

G. Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, appliances, scrap iron, tin, or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of said articles or materials create a condition in which flies or rats may breed or multiply or which may be a fire danger or which are so unsightly as to depreciate property values in the vicinity thereof.

H. Any buildings or structures which have any or all of the defects defined at Section 3-501 hereafter are hereby declared to be unsafe or dangerous buildings or structures and a public nuisance.

I. All places used or maintained (1) as junkyards or dumping grounds; (2) for the wrecking and disassembling of automobiles, trucks, tractors, or machinery of any kind; (3) 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 (4) for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons.

J. Stagnant water permitted or maintained on any lot or piece of ground.

K. Any machine, vehicle, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk.

L. Any vehicle as follows: (1) It shall be unlawful for any person in charge or control of any property within the Village, whether as owner, tenant, occupant, lessee, or otherwise, to allow any non-operating, wrecked, junked, or partially dismantled vehicle to remain on such property longer than 30 days. It shall be unlawful for any person in charge or control of any property within the Village, whether as owner, tenant, occupant, lessee, or otherwise, to allow any vehicle which has been unregistered for more than 30 days to remain on such property. (2) This subsection shall 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, or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner. If a vehicle is kept within a privacy fence, said fence must have prior approval of the Village Board with respect to height requirements, material specifications, and setbacks and must be constructed so as to prevent viewing of the items within the fence by the passing public.

M. Any wood or tree limbs not cut and stacked in neat rows on an area not exceeding 10 feet by 16 feet.

N. Debris from burned or damaged buildings, whether created by consensual burning or demolition or whether occurring due to fire or age.

O. Stockyards, granaries, mills, pig pens, cattle pens, chicken pens, or any other place, building, or enclosure in which animals or fowl 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 said places in which said animals are confined or said premises on which said 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 Village or are maintained and kept in such a manner as to be injurious to the public health.

P. Maintenance of weeds, grasses or worthless vegetation of 12 inches or more in height. Weeds shall include but not be limited to bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus* sp.), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).

Q. All other things specifically designated as nuisances elsewhere in this code. (Neb. Rev. Stat. §§17-563, 18-1720)

SECTION 3-404: NOTICE PROCEDURE; ABATEMENT

A. Whenever the designated code enforcement authority determines that any nuisance, as defined herein, is found on any property, the following abatement procedure shall be followed:

1. The designated code enforcement authority shall document the nuisance by photographing the same. Once the nuisance has been documented, the village clerk shall give notice to abate such nuisance to each owner or owner's duly authorized agent and to the occupant of the premises, if

any, by personal service, which shall be made by the designated code enforcement authority and evidenced by his or her certificate of delivery. If notice by personal service is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the Village or by conspicuously posting the notice on the lot or property upon which the nuisance is to be abated or removed. Such notice shall contain a copy of the photograph of the nuisance, a copy of this ordinance, instructions on abatement of the nuisance, time in which such abatement shall take place, and possible penalties for failure to abate.

2. Within five business days after receipt of such notice, the owner, agent, or occupant of the lot or piece of ground may request a hearing with the Village to appeal the order to abate the nuisance by filing a written appeal with the office of the village clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by the chairman as hearing officer. The chairman shall render a decision on the appeal within five business days after the conclusion of the hearing. The hearing shall be conducted informally and the formal rules of evidence shall not apply but either party may appear with an attorney and may request that the hearing be recorded for appeal purposes. Any decision rendered by the chairman may be appealed to the District Court. If no appeal is taken within ten days of the chairman's decision, the owner, agent, or occupant shall promptly comply with the notice to abate. If abatement is not completed within 20 days of the chairman's decision and no appeal is taken, the designated code enforcement authority shall proceed pursuant to subsections (3) and (4) below or to subsections (B) (1) and (2) as set forth below.
3. Within ten days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the Village or fails to appeal the decision of the chairman and fails to comply with the order to abate the nuisance, the Village shall again photograph the nuisance to document that abatement has not occurred.
4. If abatement has not occurred within the time prescribed, the designated code enforcement authority may deliver the original photographs, a copy of the delivered notice to abate, the certificate of delivery or the certificate of publication, and the photographs taken after the time to abate has elapsed to the prosecuting attorney for the Village and request that charges be filed against the owner or occupant of the premises for maintenance of a nuisance.

B. In the alternative, the Village may cause the nuisance to be corrected or removed. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the Village may either:

1. Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed, or
2. Recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

SECTION 3-405: JURISDICTION

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

SECTION 3-406: ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL

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

Article 5 – Dangerous Buildings

SECTION 3-501: DETERMINATION; DEFINITIONS

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

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

B. Those showing 33% or more of damage or deterioration of the supporting member or members, exclusive of the foundation;

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

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

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

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

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

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

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

J. Those having been inspected by the County Health Department or a professional engineer appointed by the Village which are, after inspection, deemed to be in violation of any provision of the health department rules and regulations or which are structurally unsafe or unsound as found by the inspection of the professional engineer;

K. Those existing in violation of any provision of this article, any provision of the Fire Code, any provision of the county health rules and regulations or other applicable provisions of village ordinances, including but not limited to the building code adopted by the Village.

(Neb. Rev. Stat. §18-1720)

SECTION 3-502: BUILDING INSPECTOR

The Village Board may appoint a building inspector as provided in Chapter 9 (Building Regulations), Section 9-101, who shall be the village official having the authority to carry out the duties as stated below. He or she shall, at the direction of the Village Board:

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

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

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

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

SECTION 3-503: STANDARDS

In the event that it is determined that any building or structure is unsafe or dangerous the following standards shall be followed in substance in determining whether the structure or building should be repaired, vacated or demolished:

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

B. If the unsafe or dangerous building or structure can reasonably be repaired so that it will no longer exist in violation of any of the terms or provisions of this article, it shall be ordered to be repaired. It shall be unlawful to repair or reconstruct any building now existing or located within the Village where from any cause the building becomes out of repair to the extent of one-third of its value, exclusive of foundation. It shall not be repaired or rebuilt but shall be taken down and removed within 30 days after notice to do so from the chairman and Village Board. It shall be unlawful for any person, company or corporation to repair or rebuild any such building or structure or for any owner thereof to fail to remove any such damaged building or structure within the 30-day period provided above without written consent of the board.

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

(Neb. Rev. Stat. §§17-136, 18-2107)

SECTION 3-504: UNLAWFUL MAINTENANCE

It is hereby determined unlawful to maintain a dangerous building within the corporate limits of the Village or within its zoning jurisdiction. (Neb. Rev. Stat. §28-1321)

SECTION 3-505: NUISANCE; PROCEDURE

If the specially designated building inspector or his representatives or professional engineer finds that a building or structure is unsafe or dangerous and a nuisance, the Village Board shall:

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

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

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

D. File a copy of such determination or resolution in the office of the register of deeds of the county to be recorded. No fee shall be charged for such recording or for the release of such recording.

(Neb. Rev. Stat. §18-1722.01)

SECTION 3-506: FAILURE TO COMPLY

In case any owner, occupant, lessee, mortgagee, agent or other person having an interest in the building or structure shall fail, neglect or refuse to comply with the notice by or on behalf of the Village to repair, rehabilitate or demolish and remove a building or structure which is unsafe or dangerous and a public nuisance, and fails to request a hearing on such determination, the Village may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the Village Board, which is authorized to levy the cost as a special assessment against the property. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments under Nebraska statutes. (Neb. Rev. Stat. §18-1722)

SECTION 3-507: DISPUTES

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

B. The hearing before the Village Board shall be informal and not governed by

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

SECTION 3-508: APPEAL

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

SECTION 3-509: IMMEDIATE HAZARD

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

Article 6 – Penal Provisions

SECTION 3-601: VIOLATION; PENALTY

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

SECTION 3-602: ABATEMENT OF NUISANCE

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

CHAPTER 4 – VEHICLES AND TRAFFIC

ARTICLE 1 – TRAFFIC REGULATIONS

SECTION 4-101: DEFINITIONS

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

**SECTION 4-103: SIGNS, TRAFFIC CONTROL AND SURVEILLANCE
DEVICES; DEFACING OR INTERFERING WITH**

SECTION 4-104: SIGNS; UNAUTHORIZED DISPLAY

SECTION 4-105: STOP SIGNS; YIELD SIGNS

SECTION 4-106: SCHOOL ZONES

SECTION 4-107: SCHOOL BUS STOP

SECTION 4-108: SIDEWALK SPACE

SECTION 4-109: SPEED LIMITS

SECTION 4-110: RIGHT OF WAY

SECTION 4-111: UNNECESSARY NOISE

SECTION 4-112: NEGLIGENT DRIVING

SECTION 4-113: CARELESS DRIVING

SECTION 4-114: RECKLESS DRIVING

SECTION 4-115: WILLFUL RECKLESS DRIVING

SECTION 4-116: TRUCK ROUTES

SECTION 4-117: ENGINE BRAKES

ARTICLE 2 – PARKING

SECTION 4-201: STALLS

SECTION 4-202: ALLEYS; OBSTRUCTION; LOADING AND UNLOADING

SECTION 4-203: OBSTRUCTING TRAFFIC

SECTION 4-204: OBSTRUCTING PRIVATE DRIVEWAY

SECTION 4-205: OVERHANGING STREET OR ADJACENT PROPERTY

SECTION 4-206: SIDEWALK SPACE

SECTION 4-207: EMERGENCY VEHICLES

SECTION 4-208: FIRE STATION AND HYDRANTS

**SECTION 4-209: SNOW REMOVAL; STREET MAINTENANCE OR
CLEANING**

SECTION 4-210: HANDICAPPED OR DISABLED PERSONS

SECTION 4-211: REMOVAL OF ILLEGALLY PARKED VEHICLES

ARTICLE 3 – MINIBIKES, MOPEDS AND MOTORCYCLES

SECTION 4-301: MINIBIKES; UNLAWFUL OPERATION

SECTION 4-302: MINIBIKES; EMERGENCIES AND PARADES

SECTION 4-303: MINIBIKES; PUBLIC LANDS

SECTION 4-304: MINIBIKES; TRAFFIC LAWS INAPPLICABLE

SECTION 4-305: MOPEDS; DEFINED; STATUTORY REGULATION

SECTION 4-306: MOPEDS; OPERATOR'S LICENSE

SECTION 4-307: MOPEDS; TRAFFIC REGULATIONS APPLICABLE

SECTION 4-308: MOPEDS; OPERATION; REQUIREMENTS

SECTION 4-309: MOTORCYCLES; REQUIREMENTS

ARTICLE 4 – RECREATIONAL AND OFF-ROAD VEHICLES

SECTION 4-401: SNOWMOBILES; EQUIPMENT

SECTION 4-402: SNOWMOBILES; UNLAWFUL ACTS

SECTION 4-403: SNOWMOBILES; ACCIDENT; REQUIREMENTS

**SECTION 4-404: ALL-TERRAIN AND UTILITY-TYPE VEHICLES;
DEFINITIONS**

**SECTION 4-405: ALL-TERRAIN AND UTILITY-TYPE VEHICLES;
OPERATION**

**SECTION 4-406: ALL-TERRAIN AND UTILITY-TYPE VEHICLES;
ACCIDENT REPORT**

SECTION 4-407: GOLF CAR VEHICLES; DEFINITIONS

SECTION 4-408: GOLF CAR VEHICLES; OPERATION

ARTICLE 5 – ABANDONED VEHICLES

SECTION 4-501: DEFINITIONS

SECTION 4-502: ABANDONMENT OF VEHICLE PROHIBITED

SECTION 4-503: TITLE; VEST IN VILLAGE; WHEN

SECTION 4-504: VILLAGE; POWERS AND DUTIES

SECTION 4-505: CUSTODY; WHO ENTITLED

SECTION 4-506: PROCEEDS OF SALE; DISPOSITION

SECTION 4-507: LIABILITY FOR REMOVAL

SECTION 4-508: DESTROY, DEFACE, OR REMOVE PARTS

SECTION 4-509: COSTS OF REMOVAL AND STORAGE

ARTICLE 6 – PENAL PROVISION

SECTION 4-601: VIOLATION; PENALTY

CHAPTER 4 – VEHICLES AND TRAFFIC

Article 1 – Traffic Regulations

SECTION 4-101: DEFINITIONS

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

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

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

SECTION 4-103: SIGNS, TRAFFIC CONTROL AND SURVEILLANCE DEVICES; DEFACING OR INTERFERING WITH

A. No person shall willfully or maliciously injure, deface, alter or knock down any sign, traffic control device, or traffic surveillance device.

B. 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 highway shall be guilty of an offense.

C. It shall be unlawful for any person, other than a duly authorized representative of the Department of Roads, 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 subsection.

D. Any person violating subsection (A) 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. Rev. Stat. §§60-6,129, 60-6,130)

SECTION 4-104: SIGNS; UNAUTHORIZED DISPLAY

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

SECTION 4-105: STOP SIGNS; YIELD SIGNS

A. The Village Board may provide for preferential right of way at an intersection and indicate such by stop signs or yield signs erected by such authority. Every person operating any vehicle shall, upon approaching any stop sign, cause such vehicle to come to a complete stop before entering or crossing any street, highway, or railroad crossing. The vehicle operator shall stop at a marked stop line or, if there is no stop line, before entering the crosswalk but if neither is indicated, then as near the right of way line of the intersecting roadway as possible.

B. 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, if there is no such line, shall stop 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. Rev. Stat. §§60-6,119 through 60-6,121, 60-680, 60-6,148)

SECTION 4-106: SCHOOL ZONES

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

SECTION 4-107: SCHOOL BUS STOP

The driver of a motor vehicle, upon approaching from the front or rear any school bus on which the yellow warning signal lights are flashing, shall reduce the speed of such vehicle to not more than 25 miles per hour and shall bring such vehicle to a complete stop when the school bus is stopped, the stop signal arm is extended, and the flashing red signal lights are turned on. Said driver shall remain stopped until the flashing red signal lights are turned off, the stop signal arm is retracted, and the school bus resumes motion. Any person violating this subsection shall be guilty of a Class IV misdemeanor, shall be fined \$500.00, and shall be assessed points on his or her motor vehicle operator's license pursuant to Neb. Rev. Stat. §60-4,182. (Neb. Rev. Stat. §60-6,175)

SECTION 4-108: SIDEWALK SPACE

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

SECTION 4-109: SPEED LIMITS

No person shall operate a motor vehicle on any street, alley, or other place at a rate of speed greater than 25 miles per hour within the Residential District and 20 miles

per hour within the Business District, unless a different rate of speed is specifically permitted by ordinance. In no instance shall a person drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions. Where a different maximum speed is set by ordinance, appropriate signs shall be posted. (Neb. Rev. Stat. §§60-6,185, 60-6,186, 60-6,190)

SECTION 4-110: RIGHT OF WAY

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

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

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

D. The driver of a vehicle emerging from or entering an alley, building, private road, or driveway shall yield the right of way to any pedestrian approaching on any sidewalk and all vehicles approaching on such streets.

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

1. The driver of any other vehicle shall yield the right of way and shall imme-

diately drive to a position parallel to and as close as possible to the right-hand edge or curb of the roadway or to either edge or curb of a one-way roadway, clear of any intersection, and shall stop and remain in such position until such emergency vehicle passes unless otherwise directed by any peace officer; and

2. Any pedestrian using such roadway shall yield the right of way until such emergency vehicle passes, unless otherwise directed by any peace officer.

(Neb. Rev. Stat. §§60-6,146 through 60-6,154)

SECTION 4-111: UNNECESSARY NOISE

No person shall drive, use, operate, park, or stop any motor vehicle in such a manner as to cause unnecessary noise. (Neb. Rev. Stat. §§17-505, 60-6,286, 60-6,371)

SECTION 4-112: NEGLIGENCE DRIVING

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

SECTION 4-113: CARELESS DRIVING

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

SECTION 4-114: RECKLESS DRIVING

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

SECTION 4-115: WILLFUL RECKLESS DRIVING

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

SECTION 4-116: TRUCK ROUTES

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

SECTION 4-117: ENGINE BRAKES

It shall be unlawful for any person within the village limits to make or cause to be made loud or disturbing noises with any mechanical device operated by compressed

air and used for purposes of assisted braking on any motor vehicle; provided, however, it shall be permitted to use engine brakes in an emergency situation.

Article 2 – Parking

SECTION 4-201: STALLS

Where stalls are designated on the curb or pavement, vehicles shall be parked within those stalls. (Neb. Rev. Stat. §60-680)

SECTION 4-202: ALLEYS; OBSTRUCTION; LOADING AND UNLOADING

A. No vehicle while parked shall have any portion thereof projecting into any alley entrance.

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

(Neb. Rev. Stat. §60-680)

SECTION 4-203: OBSTRUCTING TRAFFIC

Except in case of an accident or emergency, no person shall stop any vehicle in any location where such stopping will obstruct any street, intersection, or entrance to an alley or public or private drive. (Neb. Rev. Stat. §§60-680, 60-6,166)

SECTION 4-204: OBSTRUCTING PRIVATE DRIVEWAY

Except as otherwise provided herein, it shall be unlawful for any person to stop or park any vehicle so as to obstruct a private driveway in any manner, which includes stopping or parking any vehicle within 5 feet of the outer portion of a curb cut on a private driveway.

SECTION 4-205: OVERHANGING STREET OR ADJACENT PROPERTY

It shall be unlawful for any person to park or place, or cause to be parked or placed, any motor vehicle or other vehicle on any public or private property in such a manner that the vehicle overhangs the street, including that space between the curb line and the lot line, or in such a manner that the vehicle overhangs adjacent property.

SECTION 4-206: SIDEWALK SPACE

It shall be unlawful for any person to park, place, or cause to be parked or placed any motor vehicle or other vehicle upon any part of the sidewalk space or on a crosswalk. (Neb. Rev. Stat. §60-6,166)

SECTION 4-207: EMERGENCY VEHICLES

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

SECTION 4-208: FIRE STATION AND HYDRANTS

No vehicle shall be parked (A) within 15 feet in either direction of any fire hydrant; (B) within 20 feet of the driveway entrance to any fire station; nor (C) on the side of the street opposite the entrance to any fire station within 75 feet of such entrance when

properly signposted. Any vehicle or material found as an obstruction may be immediately removed by the fire chief or any member of the Fire Department at the risk, cost, and expense of the owner or claimant. (Neb. Rev. Stat. §60-6,166)

SECTION 4-209: SNOW REMOVAL; STREET MAINTENANCE OR CLEANING

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

SECTION 4-210: HANDICAPPED OR DISABLED PERSONS

The Village Board adopts and promulgates the rules and regulations necessary to fulfill the duties and obligations provided in Neb. Rev. Stat. §§18-1736, 18-1737, 18-1741.01 to 18-1741.07 regarding parking for handicapped and disabled persons. A printed copy of the current regulations shall be available for public review and access at the office of the village clerk during regular office hours.

SECTION 4-211: REMOVAL OF ILLEGALLY PARKED VEHICLES

A. Whenever any police officer shall find a vehicle standing upon a street or alley in violation of any of the provisions of this article, such officer may remove or 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 such street or alley or from such street or alley.

B. The owner or other person lawfully entitled to the possession of any vehicle towed or stored shall be charged with reasonable towing and storage fees as set by resolution of the Village Board. Any such towing or storage fees 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 such vehicle until such charges are paid. The lien provided for in this section shall not apply to the contents of any vehicles.

(Neb. Rev. Stat. §§60-6,165, 60-680)

Article 3 – Minibikes, Mopeds and Motorcycles

SECTION 4-301: MINIBIKES; UNLAWFUL OPERATION

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

SECTION 4-302: MINIBIKES; EMERGENCIES AND PARADES

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

SECTION 4-303: MINIBIKES; PUBLIC LANDS

Minibikes shall be prohibited upon the public lands owned by the Village except where allowed by resolution of the Village Board. (Neb. Rev. Stat. §60-6,353)

SECTION 4-304: MINIBIKES; TRAFFIC LAWS INAPPLICABLE

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

SECTION 4-305: MOPEDS; DEFINED; STATUTORY REGULATION

"Moped" shall mean a device with fully operative pedals for propulsion by human power, an automatic transmission, and a motor with a cylinder capacity not exceeding 50 cubic centimeters, which produces no more than two brake horsepower and is capable of propelling the device at a maximum design speed of no more than 30 miles per hour on level ground. Mopeds, their owners and their operators shall be subject to the Motor Vehicle Operator's License Act but shall be exempt from the requirements of the Motor Vehicle Certificate of Title Act, the Motor Vehicle Registration Act, and the Motor Vehicle Safety Responsibility Act. (Neb. Rev. Stat. §§60-122, 60-6,309)

SECTION 4-306: MOPEDS; OPERATOR'S LICENSE

No person shall operate a moped upon a highway unless such person has a valid operator's license. (Neb. Rev. Stat. §60-6,310)

SECTION 4-307: MOPEDS; TRAFFIC REGULATIONS APPLICABLE

A. Any person who rides a moped upon a roadway shall have all of the rights and shall be subject to all of the duties applicable to the driver of a motor vehicle under the Nebraska Rules of the Road except for special moped regulations in the rules and except for those provisions of the rules which by their nature can have no application.

B. Regulations applicable to mopeds shall apply whenever a moped is operat-

ed upon any highway or upon any path set aside by the Department of Roads or a local authority for the use of mopeds.

(Neb. Rev. Stat. §60-6,311)

SECTION 4-308: MOPEDS; OPERATION; REQUIREMENTS

A. Any person who operates a moped shall ride only upon a permanent and regular seat attached to the moped and shall ride only while sitting astride the seat, facing forward. A person operating a moped shall not carry any other person nor shall any other person ride on a moped unless it is designed by the manufacturer to carry more than one person.

B. No person shall operate a moped while carrying any package, bundle, or other article which prevents him or her from keeping both hands on the handlebars.

C. No operator shall carry any person nor shall any person ride in a position that interferes with the operation or control of the moped or the view of the operator.

D. Any moped which carries a passenger shall be equipped with footrests for such passenger.

E. No person shall operate any moped with handlebars more than 15 inches above the mounting point of the handlebars.

F. A moped shall be entitled to full use of a traffic lane of any highway with an authorized speed limit of 45 miles per hour or less, and no vehicle shall be operated in such a manner as to deprive any moped of the full use of such lane, except that mopeds and motorcycles may be operated two abreast in a single lane.

G. No person shall operate a moped between lanes of traffic or between adjacent lines or rows of vehicles.

H. Mopeds shall not be operated more than two abreast in a single lane.

I. Any person who operates a moped on a roadway with an authorized speed limit of more than 45 miles per hour shall ride as near to the right side of the roadway as practicable and shall not ride more than single file.

J. Mopeds shall not be operated on sidewalks.

K. Notwithstanding the maximum speed limits in excess of 25 miles per hour established in Neb. Rev. Stat. §60-6,186, no person shall operate any moped at a speed in excess of 30 miles per hour.

L. A person shall not operate or be a passenger a moped or motorcycle on any highway in this state unless such person is at least 21 years of age and has completed the basic motorcycle safety course as provided in the Motorcycle Safety Education Act and submitted proof of such completion to the Department of Motor Vehicles.

M. A person shall not operate a moped or motorcycle on any highway in this state unless such person employs one of the following forms of eye protection: (1) Glasses that cover the orbital region of the person's face, (2) a protective face shield attached to a protective helmet, (3) goggles, or (4) a windshield on the moped or mo-

motorcycle that protects the operator's and passenger's horizontal line of vision in all operating positions.

(Neb. Rev. Stat. §§60-6,279, 60-6,312, 60-6,313)

SECTION 4-309: MOTORCYCLES; REQUIREMENTS

A. Any person who operates a motorcycle shall have all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under this chapter.

B. Any person who operates a motorcycle shall ride only upon a permanent, regular seat attached thereto and shall ride only while sitting astride the seat, facing forward. A motorcycle operator shall not carry any other person nor shall any other person ride unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent, regular seat if designed for two persons or upon another seat firmly attached to the motorcycle to the rear or side of the operator.

C. No person shall ride a motorcycle upon the streets, alleys or highways from one-half hour after sunset to one-half hour before sunrise unless the same shall be equipped with at least one and not more than two headlights, plainly visible from the front; and a light on the rear exhibiting a red light visible under normal atmospheric conditions from a distance of at least 500 feet to the rear thereof; provided, said lights shall comply with the requirements and limitations of state statutes.

D. No person shall operate a motorcycle while carrying any package, bundle or other article which prevents him or her from keeping both hands on the handlebars.

E. No operator shall carry any person nor shall any person ride in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

F. A motorcycle shall be entitled to full use of a traffic lane of any highway and no vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of such lane. This subsection shall not apply to motorcycles operated two abreast in a single lane.

G. The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

H. No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

I. Motorcycles shall not be operated more than two abreast in a single lane.

J. A person shall not operate or be a passenger on a motorcycle on any highway in this state unless such person complies with the provisions of Section 4-308(L) and (M) herein.

(Neb. Rev. Stat. §§60-6,219, 60-6,307, 60-6,308)

Article 4 – Recreational and Off-Road Vehicles

SECTION 4-401: SNOWMOBILES; EQUIPMENT

A. Every snowmobile operated within the Village shall be registered with the State of Nebraska as required by law. No snowmobile shall be operated upon a public street or highway unless it is equipped with at least one headlamp, one taillamp, reflector material of a minimum area of 16 square inches mounted on each side forward of the handle bars, and with brakes as prescribed by the state director of motor vehicles. Every snowmobile shall be equipped at all times with a muffler in good working order which blends the exhaust noise into the overall snowmobile noise and is in constant operation to prevent excessive or unusual noise; the exhaust system shall not emit or produce a sharp popping or crackling sound.

B. All laws applying to the operation of other motor vehicles shall apply to snowmobiles, except those relating to required equipment and those which, by their nature, have no application.

(Neb. Rev. Stat. §§60-6,335, 60-6,339)

SECTION 4-402: SNOWMOBILES; UNLAWFUL ACTS

It shall be unlawful for any person to allow a snowmobile, either owned or operated by him or her, to be operated:

A. At a rate of speed greater than reasonable or proper under the surrounding circumstances.

B. In a careless, reckless or negligent manner so as to endanger person or property.

C. While under the influence of alcoholic liquor or any drug.

D. By a person (1) under the age of 12 years unless accompanied by a parent, guardian, or other person over 18 years of age or (2) over the age of 12 years and under the age of 16 years unless such person (a) holds a valid snowmobile safety certificate, (b) is accompanied by a person 14 years of age or over who holds a valid snowmobile safety certificate, or (c) is accompanied by a person over the age of 18 years. The operator of a snowmobile shall not be required to hold an operator's license.

E. Without the proper equipment as required in Section 4-401.

F. Upon any private lands without first having obtained permission of the owner, lessee or operator of such lands.

(Neb. Rev. Stat. §§60-6,337, 60-6,338, 60-6,340)

SECTION 4-403: SNOWMOBILES; ACCIDENT; REQUIREMENTS

A. The operator of a snowmobile involved in a collision, accident, or other casualty occurring on any public land, ice, snow, park, right-of-way, trail, or course shall give his or her name and address and the number of such snowmobile in writing to

any injured person and to the owner of any property damaged in such collision, accident, or other casualty.

B. When a collision, accident, or other casualty involving a snowmobile results in death or injury to a person or damage to property in excess of \$100.00, the operator of such snowmobile shall within ten days file with the state director of motor vehicles a full report of such collision, accident, or other casualty in such form and detail as the director by regulation may prescribe.

(Neb. Rev. Stat. §60-6,346)

SECTION 4-404: ALL-TERRAIN AND UTILITY-TYPE VEHICLES; DEFINITIONS

A. "All-terrain vehicle" (ATV) means any motorized off-highway vehicle which (1) is 50 inches or less in width, (2) has a dry weight of 1,200 pounds or less, (3) travels on three or more non-highway tires, and (4) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger. (Neb. Rev. Stat. §60-6,355)

B. "Utility-type vehicle" (UTV) means any motorized off-highway vehicle which (1) is 74 inches in width or less, (2) is not more than 180 inches in length, including the bumper, (3) has a dry weight of 2,000 pounds or less, and (4) travels on four or more non-highway tires. "Utility-type vehicle" does not include all-terrain vehicles, golf car vehicles, or low-speed vehicles. (Neb. Rev. Stat. §60-6,355)

C. "Controlled-access highway" shall mean every highway or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or egress from except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway. (Neb. Rev. Stat. §60-615)

SECTION 4-405: ALL-TERRAIN AND UTILITY-TYPE VEHICLES; OPERATION

A. An ATV and a UTV may be operated on streets and highways within the corporate limits of the Village only if the operator and the vehicle comply with the provisions of this section.

B. An ATV or UTV may be operated only between the hours of sunrise and sunset and shall not be operated at a speed in excess of 30 miles per hour. When in operation as authorized herein, the headlight and taillight of the vehicle shall be on and it shall be equipped with a bicycle safety flag which extends not less than 5 feet above ground attached to the rear of such vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than 30 square inches and shall be Day-Glo in color.

C. Any person operating an ATV or UTV as authorized herein shall have:

1. A valid Class O operator's license or a farm permit as provided in Neb. Rev. Stat. §60-4,126; and
2. Liability insurance coverage for the ATV or UTV while being operated on a street or highway. The person operating the vehicle shall provide proof

of such insurance coverage to any peace officer requesting such proof within five days of such a request.

D. ATVs and UTVs may be operated without complying with subsections (B) and (C) of this section on streets and highways in parades which have been authorized by the Village.

E. An ATV or a UTV shall not be operated on any controlled-access highway with more than two marked traffic lanes, and the crossing of any controlled-access highway with more than two marked traffic lanes shall not be permitted. Subsections (A) through (C) and (F) of this section authorize and apply to operation of an ATV or UTV only on a street or highway other than a controlled-access highway with more than two marked traffic lanes.

F. Subject to subsection (E) of this section, the crossing of a street or highway shall be permitted by an ATV or a UTV without complying with subsections (B) and (C) of this section only if:

1. The crossing is made at an angle of approximately 90° to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing;
2. The vehicle is brought to a complete stop before crossing the shoulder or roadway of the street or highway;
3. The operator yields the right of way to all oncoming traffic that constitutes an immediate potential hazard;
4. In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway; and
5. Both the headlight and taillight of the vehicle are on when the crossing is made.

(Neb. Rev. Stat. §60-6,356)

SECTION 4-406: ALL-TERRAIN AND UTILITY-TYPE VEHICLES; 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 ATV or UTV involved in the accident shall give notice of the accident in the same manner provided in Neb. Rev. Stat. §60-699. (Neb. Rev. Stat. §60-6,361)

SECTION 4-407: GOLF CAR VEHICLES; DEFINITIONS

A. "Golf car vehicle" means a vehicle that (1) has at least four wheels, (2) has a maximum level ground speed of less than 20 miles per hour, (3) has a maximum payload capacity of 1,200 pounds, (4) has a maximum gross vehicle weight of 2,500 pounds, (5) has a maximum passenger capacity of not more than four persons, (6) is designed and manufactured for operation on a golf course for sporting and recreational purposes, and (7) is not being operated within the boundaries of a golf course. (Neb. Rev. Stat. §60-622.01)

B. "Road" means a public way for the purposes of vehicular travel, including the entire area within the right of way. (Neb. Rev. Stat. §60-6,381)

C. "Street" means a public way for the purposes of vehicular travel in the Village and includes the entire area within the right of way. (Neb. Rev. Stat. §60-6,381)

SECTION 4-408: GOLF CAR VEHICLES; OPERATION

A. A golf car vehicle may be operated on streets within the corporate limits of the Village if the operation is (1) between sunrise and sunset and (2) on streets with a posted speed limit of 35 miles per hour or less. When operating a golf car vehicle as authorized under this subsection, the operator shall not operate such vehicle at a speed in excess of 20 miles per hour. A golf car vehicle shall not be operated at any time on any state or federal highway but may be operated upon such a highway in order to cross a portion of the highway system which intersects a street as directed in subsection (C) of this section.

B. Any person operating a golf car vehicle as authorized herein shall have a valid Class O operator's license and the owner of the vehicle shall have liability insurance coverage for it. The person operating the golf car vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five days after such a request. The liability insurance coverage shall be subject to limits, exclusive of interest and costs, as follows: \$25,000.00 because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, \$50,000.00 because of bodily injury to or death of two or more persons in any one accident and \$25,000.00 because of injury to or destruction of property of others in any one accident.

C. The crossing of a highway shall be permitted by a golf car vehicle only if:

1. The crossing is made at an angle of approximately 90° to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
2. The golf car vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway;
3. The operator yields the right of way to all oncoming traffic that constitutes an immediate potential hazard; and
4. In crossing a divided highway, the crossing is made only at an intersection of such highway with a street or road, as applicable.

(Neb. Rev. Stat. §60-6,381)

**Village of Spalding
Traffic**

Vehicles and

Article 5 – Abandoned Vehicles

SECTION 4-501: DEFINITIONS

A. A motor vehicle is an abandoned vehicle:

1. If left unattended with no license plates or valid “In Transit” stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto for more than six hours on any public property;
2. If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;
3. If left unattended for more than 48 hours after the parking of such vehicle has become illegal if left on a portion of any public property on which parking is legally permitted;
4. If left unattended for more than seven days on private property if left initially without permission of the owner or after permission of the owner is terminated;
5. If left for more than 30 days in the custody of a law enforcement agency after the agency has sent a letter to the last registered owner under Neb. Rev. Stat. §60-1903.01; or
6. If removed from private property by the Village pursuant to a municipal ordinance.

B. An all-terrain vehicle, a utility-type vehicle, or a 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 law enforcement agency after the agency has sent a letter to the last registered owner under Neb. Rev. Stat. §60-1903.01; or
5. If removed from private property by the Village pursuant to a municipal ordinance.

C. A mobile home is an abandoned vehicle if left in place on private property for more than 30 days after the Village, 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. Rev. Stat. §60.1903.

D. For purposes of this section:

1. "Mobile home" means 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. Rev. Stat. §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. Rev. Stat. §60-169.
2. "Public property" means any public right of way, street, highway, alley, or park or other state, county, or municipally owned property.
3. "Private property" means any privately owned property which is not included within the definition of public property.

E. No motor vehicle subject to forfeiture under Neb. Rev. Stat. §28-431 shall be an abandoned vehicle under this section.
(Neb. Rev. Stat. §60-1901)

SECTION 4-502: ABANDONMENT OF VEHICLE PROHIBITED

No person shall cause any vehicle to be an abandoned vehicle as described in subdivision (A)(1), (2), (3), or (4) or (B)(1), (2), or (3) of Neb. Rev. Stat. §60-1901. (Neb. Rev. Stat. §60-1907)

SECTION 4-503: TITLE; VEST IN VILLAGE; WHEN

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. Rev. Stat. §60-376 affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of \$250.00 or less, title shall immediately vest in the Village as provided in Neb. Rev. Stat. §60-1904. Any certificate of title issued under this section to the Village shall be issued at no cost. (Neb. Rev. Stat. §60-1902)

SECTION 4-504: VILLAGE; POWERS AND DUTIES

A. Except for vehicles governed by Neb. Rev. Stat. §60-1902, the Village shall make an inquiry concerning the last registered owner of such vehicle as follows:

1. Abandoned vehicle with license plates affixed, to the jurisdiction which issued such license plates; or
2. Abandoned vehicle with no license plates affixed, to the Department of Motor Vehicles.

B. 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 (1) it will be sold or will be offered at public auction after five days from the date such notice was mailed or (2) title will vest in the Village 30 days after the date such notice was mailed. If the agency described in subdivision (A)(1) or (2) of this section also notifies the Village that a lien or mortgage exists, such notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.

C. Title to an abandoned vehicle, if unclaimed, shall vest in the Village (1) five days after the date the notice is mailed if the vehicle will be sold or offered at public auction under subdivision (B)(1) of this section, (2) 30 days after the date the notice is mailed if the Village will retain the vehicle, or (3) if the last registered owner cannot be ascertained, when notice of such fact is received.

D. After title to the abandoned vehicle vests pursuant to subsection (C) of this section, the Village 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. Rev. Stat. §60-1903)

SECTION 4-505: CUSTODY; WHO ENTITLED

The Village shall be entitled to custody of an abandoned vehicle found within the Village. (Neb. Rev. Stat. §60-1904)

SECTION 4-506: PROCEEDS OF SALE; DISPOSITION

Any proceeds from the sale of an abandoned vehicle less any expenses incurred by the Village shall be held by it without interest for the benefit of the owner or lienholders of such vehicle for a period of two years. If not claimed within such two-year period, the proceeds shall be paid into the general fund of the Village. (Neb. Rev. Stat. §60-1905)

SECTION 4-507: LIABILITY FOR REMOVAL

Neither the Village nor the owner, lessee, nor occupant of the premises from which any abandoned vehicle is removed shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the Village or its contractual agent or as a result of any subsequent disposition. (Neb. Rev. Stat. §60-1906)

SECTION 4-508: DESTROY, DEFACE, OR REMOVE PARTS

No person other than one authorized by the Village shall destroy, deface, or remove any part of a vehicle which is left unattended on a highway or other public place without license plates affixed or which is abandoned. Anyone violating this section shall

be guilty of a Class V misdemeanor. (Neb. Rev. Stat. §60-1908)

SECTION 4-509: COSTS OF REMOVAL AND STORAGE

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. Rev. Stat. §60-1909)

Article 6 – Penal Provision

SECTION 4-601: VIOLATION; PENALTY

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

CHAPTER 5 – BUSINESS REGULATIONS

ARTICLE 1 – ALCOHOLIC LIQUOR

SECTION 5-101: DEFINITIONS

SECTION 5-102: CONSUMPTION IN PUBLIC PLACES; LICENSE

SECTION 5-103: VILLAGE POWERS AND DUTIES

SECTION 5-104: LICENSEE REQUIREMENTS

SECTION 5-105: LOCATION

SECTION 5-106: ACCESS TO DWELLINGS

SECTION 5-107: SANITARY CONDITIONS

SECTION 5-108: CATERING LICENSE

SECTION 5-109: DISPLAY OF LICENSE

SECTION 5-110: HOURS OF SALE

SECTION 5-111: INSPECTIONS

SECTION 5-112: OWNER OF PREMISES

SECTION 5-113: EMPLOYER

SECTION 5-114: MINORS AND INCOMPETENTS

SECTION 5-115: AUTOMATIC LICENSE RENEWAL; PROTESTS

SECTION 5-116: CITIZENS' COMPLAINT

SECTION 5-117: COMPLAINT INITIATED BY BOARD

SECTION 5-118: REVOCATION OF LICENSE

**SECTION 5-119: REMOVAL OF INTOXICATED PERSONS FROM PUBLIC
OR QUASI-PUBLIC PROPERTY**

ARTICLE 2 – PEDDLERS AND SOLICITORS

SECTION 5-201: REGISTRATION; ISSUANCE OF PERMIT

SECTION 5-202: EXCEPTIONS

SECTION 5-203: HOURS

ARTICLE 3 – PENAL PROVISION

SECTION 5-301: VIOLATION; PENALTY

CHAPTER 5 – BUSINESS REGULATIONS

Article 1 – Alcoholic Liquor

SECTION 5-101: DEFINITIONS

All words and phrases herein used shall have the definitions applied thereto as defined in the Liquor Control Act of the State of Nebraska. (Neb. Rev. Stat. §53-103)

SECTION 5-102: CONSUMPTION IN PUBLIC PLACES; LICENSE

It shall be unlawful for any person owning, operating, managing, or conducting any bottle club, dance hall, restaurant, cafe, 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 Nebraska Liquor Control Act. It shall also be unlawful for any person to consume alcoholic liquor in any bottle club, dance hall, restaurant, cafe, 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 does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages or to limousines or buses operated under Neb. Rev. Stat. §60-6,211.08. (Neb. Rev. Stat. §53-186.01)

SECTION 5-103: VILLAGE POWERS AND DUTIES

A. The Village Board is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail, craft brewery, and microdistillery licensees carried on within the corporate limits of the Village.

B. During the period of 45 days after the date of receiving from the Nebraska Liquor Control Commission an application for a new license to sell alcoholic liquor at retail or a craft brewery or microdistillery license, the Village Board may make and submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant.

C. The Village Board, with respect to licenses within the corporate limits of the Village, has the following powers, functions, and duties with respect to retail, craft brewery, and microdistillery licenses:

1. To cancel or revoke for cause retail, craft brewery, and microdistillery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the commission.
2. To enter or authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act ("the act") to determine whether any provision of the act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation adopted by the Village Board has been or is being violated and at such time examine the premises of such licensee in connection with such determination. Any law enforcement officer who deter-

mines that any provision of the Nebraska Liquor Control Act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation adopted by the Village Board has been or is being violated 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 such complaints in the manner provided in the act.
 4. To receive retail, craft brewery, and microdistillery license fees as provided in Neb. Rev. Stat. §§53-124 and 53-124.01 and pay the same to the village treasurer after the license has been delivered to the applicant.
 5. To examine or cause to be examined any applicant or any retail, craft brewery, or microdistillery licensee upon whom notice of cancellation or revocation has been served as provided in the act, to examine or cause to be examined the books and records of any applicant or licensee and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the Village Board may authorize its agent or attorney to act on its behalf.
 6. To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in Neb. Rev. Stat. §53-134.04, it determines that the licensee has violated any of the provisions of the act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. Such order of cancellation or revocation may be appealed to the commission within 30 days after the date of the order by filing a notice of appeal with the commission, which shall handle the appeal in the manner provided for hearing on an applica-

tion in Neb. Rev. Stat. §53-133.

7. Upon receipt from the commission of the notice and copy of application as provided in Neb. Rev. Stat. §53-131, to fix a time and place for a hearing at which the Village Board shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in the Village one time not less than seven and not more than 14 days before the time of the hearing. Such notice shall include but not be limited to a statement that all persons desiring to give evidence before the Village Board in support of or in protest against the issuance of such license may do so at the time of the hearing. Said hearing shall be held not more than 45 days after the date of receipt of the notice from the commission. After such hearing the Village Board shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of such license. The village clerk shall mail to the commission by first class mail, postage prepaid, a copy of the resolution, which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the commission. If the commission refuses to issue such a license, the cost of publication of notice shall be paid by the commission from the security for costs.

D. When the Nebraska Liquor Control Commission mails or delivers to the village clerk a license issued or renewed by it, the clerk shall deliver the license to the licensee upon proof of payment of (1) the license fee if, by the terms of Neb. Rev. Stat. §53-124(5), the fee is payable to the village treasurer; (2) any fee for publication of notice of hearing before the Village Board upon the application for license; and (3) the fee for publication of notice of renewal, if applicable, as provided in Neb. Rev. Stat. §53-135.01; and (4) occupation taxes, if any, imposed by the Village.

E. Notwithstanding any ordinance or charter power to the contrary, the Village shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the Village in any sum which exceeds two times the amount of the license fee required to be paid under the act to obtain such license.
(Neb. Rev. Stat. §§53-131, 53-132, 53-134)

SECTION 5-104: LICENSEE REQUIREMENTS

No liquor license shall be issued to any person unless he or she is a resident of Nebraska; is a person of good character and reputation in the community; is a U.S. citizen; has never been convicted of or pled guilty to a felony under the laws of this state, any other state, or the United States; has never been convicted of or pled guilty to any Class I misdemeanor pursuant to Neb. Rev. Stat. §§53-125; has never had a liquor license revoked for cause; and meets other requirements as provided in Neb. Rev. Stat. §53-125. (Neb. Rev. Stat. §53-125)

SECTION 5-105: LOCATION

A. Except as otherwise provided in subsection (B) of this section, no license shall be issued for the sale at retail of any alcoholic liquor or for a bottle club within 150 feet of any church, school, hospital, or home for indigent persons or for veterans and their wives or children. This prohibition does not apply (1) to any location within such distance of 150 feet for which a license to sell alcoholic liquor at retail has been granted by the commission for two years continuously prior to making of application for license, or (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.

B. If a proposed location for the sale at retail of any alcoholic liquor or for a bottle club is within 150 feet of any church, a license may be issued if the Liquor Control Commission gives notice to the affected church and holds a hearing as prescribed in Neb. Rev. Stat. §53-133 if the affected church submits a written request for a hearing.

(Neb. Rev. Stat. §53-177)

SECTION 5-106: ACCESS TO DWELLINGS

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises having any access which leads from such premises to any other portion of the same building used for dwelling or lodging purposes and which is permitted to be used or kept accessible for use by the public. Nothing herein shall prevent any connection with such premises and such other portion of the building that is used only by the licensee, his or her family, or personal guests. (Neb. Rev. Stat. §53-178)

SECTION 5-107: 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 which the Village Board or the village police may make or cause to be made. All applications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions, and a report concerning the said sanitary conditions shall be made at all hearings concerning the application for or renewal of a liquor license. (Neb. Rev. Stat. §53-118)

SECTION 5-108: CATERING LICENSE

A. The holder of a Class C, Class D, or Class I license issued under Neb. Rev. Stat. §53-124(5) or a craft brewery license may obtain an annual catering license by filing an application and license fee with the Nebraska Liquor Control Commission. (Neb. Rev. Stat. §53-124.12[1])

B. Upon receipt from the commission of the notice and copy of the application as provided in Neb. Rev. Stat. §53-124.12, the Village Board shall process the appli-

cation in the same manner as provided in Section 5-103 (Village Powers and Duties). (Neb. Rev. Stat. §53-124.12)

SECTION 5-109: DISPLAY OF LICENSE

Every licensee under the Nebraska Liquor Control Act shall cause his or her license to be framed and hung in plain public view in a conspicuous place on the licensed premises. (Neb. Rev. Stat. §53-148)

SECTION 5-110: HOURS OF SALE

A. For the purposes of this section:

1. "On sale" shall be defined as alcoholic liquor sold by the drink for consumption on the premises of the licensed establishment.
2. "Off sale" shall be defined as alcoholic liquor sold at retail in the original container for consumption off the premises of the licensed establishment.

B. It shall be unlawful for any licensed person or persons or their agents to sell at retail or dispense any alcoholic liquor within the Village except during the hours provided herein:

Alcoholic Liquors incl. Beer and Wine	
Daily, On and Off Sale	6:00 a.m. to 2:00 a.m.

C. Such limitations shall not apply after 12:00 noon on Sunday to a licensee which is a nonprofit corporation and the holder of a Class C or Class I license.

D. It shall be unlawful on property licensed to sell alcoholic liquor at retail to allow alcoholic liquor in open containers to remain or be in possession or control of any person for purposes of consumption between 15 minutes after the closing hour applicable to the licensed premises and 6:00 a.m. on any day.

E. Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which this section prohibits the sale or dispensing of alcoholic liquor.
(Neb. Rev. Stat. §53-179)

SECTION 5-111: INSPECTIONS

The Liquor Control Commission and Village Board shall cause frequent inspections to be made on the premises of all retail licensees and if it is found that any such licensee is violating any provision of the Nebraska Liquor Control Act or the rules and regula-

tions of the commission adopted and promulgated under the act or is failing to observe in good faith the purposes of the act, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in his or her defense. (Neb. Rev. Stat. §53-116.01)

SECTION 5-112: OWNER OF PREMISES

The owner of any premises used for the sale at retail of alcoholic beverages shall be deemed guilty of a violation of these laws to the same extent as the said licensee if the owner shall knowingly permit the licensee to use the said licensed premises in violation of any municipal code section or Nebraska statute. (Neb. Rev. Stat. §53-1,101)

SECTION 5-113: EMPLOYER

The employer of any officer, director, manager, or employee working in a retail liquor establishment shall be held to be liable and guilty of any act or omission or violation of any law or ordinance, if such act is committed or omission is made with the authorization, knowledge, or approval of the employer or licensee. Each such act or omission shall be deemed and held to be the act of the employer and will be punishable in the same manner as if the said act or omission had been committed by him or her personally. (Neb. Rev. Stat. §53-1,102)

SECTION 5-114: MINORS AND INCOMPETENTS

It shall be unlawful for any person or persons to sell, give away, dispose of, exchange, permit the sale of, or make a gift of any alcoholic liquors or to procure any such alcoholic liquors to or for any minor or any person who is mentally incompetent. (Neb. Rev. Stat. §53-180)

SECTION 5-115: AUTOMATIC LICENSE RENEWAL; PROTESTS

A. An outstanding retail license issued by the commission may be automatically renewed by the commission without formal application upon payment of the renewal fee and license fee if payable to the commission prior to or within 30 days after the expiration of the license. The payment shall be an affirmative representation and certification by the licensee that all answers contained in an application, if submitted, would be the same in all material respects as the answers contained in the last previous application. The commission may at any time require a licensee to submit an application, and the commission shall at any time require a licensee to submit an application if requested in writing to do so by the Village Board. If a licensee files an application form in triplicate original upon seeking renewal of his or her license, the application shall be processed as set forth in Neb. Rev. Stat. §53-131.

B. The village clerk shall cause to be published in a legal newspaper in or of general circulation in the Village one time between January 10 and January 30 each year individual notice of the right of automatic renewal of each retail liquor and beer license within the Village in the form prescribed by law; provided, Class C license renewal notices shall be published between July 10 and July 30 each year. Upon the

conclusion of any hearing required by this section, the Village Board may request a licensee to submit an application as provided in Neb. Rev. Stat. §53-135.

C. Written protests to the issuance of automatic renewal of a license may be filed by any resident of the Village as provided in Neb. Rev. Stat. §53-135.01 and in the event protests are filed by three or more such persons, hearing will be had to determine whether continuation of the license should be allowed.
(Neb. Rev. Stat. §§53-135, 53-135.01)

SECTION 5-116: CITIZENS' COMPLAINT

A. Any five residents of the Village shall have the right to file a complaint with the Village Board stating that any retail licensee subject to the jurisdiction of the board has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the act. Such complaint shall be in writing in the form prescribed by the Village Board and shall be signed and sworn by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based.

B. If the Village Board is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint. The complaint must in all cases be disposed of by the Village Board within 30 days from the date the complaint was filed by resolution thereof and said resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided in Neb. Rev. Stat. §53-1,115.
(Neb. Rev. Stat. §53-134.04)

SECTION 5-117: COMPLAINT INITIATED BY BOARD

The Village Board may on its own motion by resolution fix the time and place for a hearing on whether a licensee has violated any section of the Nebraska Liquor Control Act, the regulations of the Nebraska Liquor Control Commission, or this code, which resolution shall state the section or sections in question. Said resolution shall be served in the same manner and within the same time as the initial resolution mentioned in Section 5-115 (Citizens' Complaint), and insofar as possible the procedure shall be the same as is provided in that section. (Neb. Rev. Stat. §53-134)

SECTION 5-118: REVOCATION OF LICENSE

Whenever any licensee has been convicted by any court of a violation of the Nebraska Liquor Control Act, the licensee may, in addition to the penalties for such offense, incur a forfeiture of the license and all money that had been paid for the license. The Village Board may conditionally revoke the license subject to a final order of the Liquor Control Commission or the commission may revoke the license in an original proceeding brought before it for that purpose. (Neb. Rev. Stat. §53-116.02)

SECTION 5-119: REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY

A. Village law enforcement, county sheriffs, officers of the Nebraska State Patrol, and any other such law enforcement officers with power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself, or others or who is otherwise incapacitated from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take such intoxicated person to his or her home or to place such person in any hospital, clinic, or alcoholism center or with a medical doctor as may be necessary to preserve life or to prevent injury. Such effort at placement shall be deemed reasonable if the officer contacts those facilities or doctors which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If such efforts are unsuccessful or are not feasible, the officer may then place such intoxicated person in civil protective custody, except that civil protective custody shall be used only so long as is necessary to preserve life or to prevent injury and under no circumstances for longer than 24 hours.

B. The placement of such person in civil protective custody shall be recorded at the facility or jail to which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to such person designated by the person taken into civil protective custody.

C. The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for such actions.

D. The taking of an individual into civil protective custody under this section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

E. For purposes of this section, "public property" shall mean any public right of way, street, highway, alley, park, or other state-, county-, or village-owned property. "Quasi-public property" shall mean and include private or publicly owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress.
(Neb. Rev. Stat. §53-1,121)

Article 2 – Peddlers and Solicitors

SECTION 5-201: REGISTRATION; ISSUANCE OF PERMIT

A. All individuals going door to door in the Village with the intent to sell any goods, services, products or insurance or to solicit money for any purpose shall, before doing business within the Village, make application for and be issued a license. Application shall be made to the village clerk upon a form supplied by the Village and shall contain all the necessary information required for the protection of the residents of the Village. Any license so granted shall be subject to revocation in the event that the information provided is inaccurate or misleading or for other good and sufficient cause in the clerk's discretion.

B. Any person granted a license shall be subject to any fees, rules and regulations which the Village Board has adopted for the purposes stated herein. Any such fee shall be as set by resolution by the board and kept on file in the office of the village clerk.

(Neb. Rev. Stat. §§17-134, 17-525)

SECTION 5-202: EXCEPTIONS

Nothing herein shall be construed to apply to any person or persons selling produce raised within the county, to wholesale companies or their agents soliciting merchants directly, or to representatives of a non-profit or charity organization soliciting on behalf of that organization.

SECTION 5-203: HOURS

It shall be unlawful to make calls as a solicitor or peddler to prospective customers before 8:00 a.m. or after 6:00 p.m. any day unless requested to do so by the prospective customer. It shall be unlawful at any hour for any person to solicit without having a proper license on his or her person at all times. (Neb. Rev. Stat. §17-134)

Article 3 – Penal Provision

SECTION 5-301: VIOLATION; PENALTY

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

CHAPTER 6 – PUBLIC WAYS AND PROPERTY

ARTICLE 1 – MUNICIPAL PROPERTY

SECTION 6-101: DEFINITIONS

SECTION 6-102: GENERAL AUTHORITY

SECTION 6-103: OBSTRUCTIONS

SECTION 6-104: OVERHANGING BRANCHES

SECTION 6-105: EAVE AND GUTTER SPOUTS

SECTION 6-106: DAMAGE

SECTION 6-107: CUTTING CURB; DRIVEWAY; PERMIT; DEPOSIT

SECTION 6-108: HEAVY EQUIPMENT

SECTION 6-109: REAL PROPERTY; ACQUISITION; AUTHORIZATION

SECTION 6-110: REAL PROPERTY; ACQUISITION; APPRAISAL

**SECTION 6-111: REAL PROPERTY; ACQUISITION; CONSTRUCTION;
ELECTIONS, WHEN REQUIRED**

SECTION 6-112: REAL PROPERTY; SALE AND CONVEYANCE

SECTION 6-113: PERSONAL PROPERTY; SALE AND CONVEYANCE

ARTICLE 2 – STREETS

SECTION 6-201: DEDICATION TO PUBLIC USE

SECTION 6-202: NAMES AND NUMBERS

SECTION 6-203: CROSSINGS

SECTION 6-204: EXCAVATION

SECTION 6-205: SNOW, DEBRIS, ETC.

SECTION 6-206: DRIVING STAKES

SECTION 6-207: MIXING CONCRETE

SECTION 6-208: HARMFUL LIQUIDS

SECTION 6-209: UTILITY POLES, WIRES, MAINS

SECTION 6-210: DRIVEWAY APPROACHES

**SECTION 6-211: POWER TO IMPROVE, VACATE, ETC.; IMPROVEMENT
DISTRICTS; SPECIAL ASSESSMENTS; STREETS ON
CORPORATE LIMITS**

SECTION 6-212: PETITION FOR IMPROVEMENTS

SECTION 6-213: IMPROVEMENT DISTRICTS; OBJECTIONS

SECTION 6-214: IMPROVEMENT OF MAIN THOROUGHFARES

SECTION 6-215: IMPROVEMENT; PROTESTS OR PETITIONS

SECTION 6-216: IMPROVEMENTS WITHOUT PETITION OR CREATION

OF DISTRICT

SECTION 6-217: IMPROVEMENTS; ASSESSMENT AND COLLECTION

SECTION 6-218: DEFERRAL FROM SPECIAL ASSESSMENTS

SECTION 6-219: VACATING PUBLIC WAYS

ARTICLE 3 – SIDEWALKS

SECTION 6-301: DUTY TO KEEP CLEAN

**SECTION 6-302: CONSTRUCTION OR REPAIR BY OWNER;
APPLICATION, PERMIT**

SECTION 6-303: CONSTRUCTION OR REPAIR; ORDERED BY VILLAGE

SECTION 6-304: IMPROVEMENTS; ASSESSMENT AND COLLECTION

**SECTION 6-305: CONSTRUCTION BY PETITION; IMPROVEMENT
DISTRICT; SPECIAL ASSESSMENTS; ABUTTING
OWNER**

ARTICLE 4 – PENAL PROVISION

SECTION 6-401: VIOLATION; PENALTY

CHAPTER 6 – PUBLIC WAYS AND PROPERTY

Article 1 – Municipal Property

SECTION 6-101: DEFINITIONS

The following definition shall be applied throughout this chapter. When no definition is specified, the normal dictionary usage of the word shall apply:

"Sidewalk space" as used herein shall mean that portion of a street between curb lines and adjacent property lines.

SECTION 6-102: GENERAL AUTHORITY

A. The Village Board shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the Village and shall cause the same to be kept open, in repair, and free from nuisances.

B. The Village shall have the power to prevent and remove all encroachments, including snow, ice, and other similar obstructions upon all sidewalks and other village property.

C. The Village shall have the power to remove all obstructions from the sidewalks, curbs, gutters, and crosswalks at the expense of the person placing them there or at the expense of the Village and to require and regulate the planting and protection of shade trees in and along the streets and the trimming and removing of such trees.

D. The Village shall have the power to regulate the building of bulkheads, cellar and basement ways, stairways, railways, windows, doorways, awnings, hitching posts and rails, 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. Rev. Stat. §§17-555, 17-557, 17-557.01, 17-558, 17-567)

SECTION 6-103: OBSTRUCTIONS

A. It shall be unlawful for any person, firm or corporation to obstruct or encumber by fences, gates, buildings, structures, or otherwise any of the streets, alleys, or sidewalks.

B. Trees and shrubs growing upon the lot line partially on public ground and partially upon the abutting property or wholly upon the abutting property but so close to the lot line as to interfere with the use or construction of any public improvement or so that the roots thereof interfere with any utility wires or pipe shall be deemed obstructions. It shall be the duty of owners and occupants to keep all such similar growth trimmed and pruned at all times.

C. Whenever any such growth is allowed contrary to the provisions of this sec-

tion, the Village Board may pass a resolution ordering the owner or occupant to remove such obstruction within five days after having been served with a copy of said resolution stating that the Village will do so and will charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided or shall collect the same by civil suit brought in the name of the Village against the said owner or occupant.

D. Said growth may be removed by the Village at the expense of the owner of the property upon which the tree or shrub is located should the owner fail or neglect, after notice, to do so. In the event the property owner is a nonresident of the county in which the property lies, the Village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §§17-557, 17-557.01)

SECTION 6-104: OVERHANGING BRANCHES

A. The owner or occupant of any lot, piece or parcel of ground abutting or adjacent to any street or sidewalk over which the branches of trees extend shall at all times keep the branches or limbs thereof trimmed to a height of at least 8 feet above the surface of said walk and at least 12 feet above the surface of said street.

B. Whenever the limbs or branches of any tree or trees extend over streets or sidewalks contrary to the provisions herein so as to interfere with the lighting of the street from street lights or with the convenience of the public using said street or sidewalk, the Village Board at any regular or special meeting may pass a resolution ordering the owner or occupant to cut or remove said obstructions within five days after having received a copy thereof stating that the Village will remove said branches and charge the costs to the owner or occupant as a special assessment for improvements as herein provided if said resolution is not complied with.

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

(Neb. Rev. Stat. §17-557.01)

SECTION 6-105: EAVE AND GUTTER SPOUTS

It is hereby declared unlawful for any person to erect or maintain any dwelling or business building within the limits of the Village where the said dwelling or building abuts on any sidewalk or street without providing proper guttering and eave spouts to receive the wastewaters that collect on the said sidewalks and streets. All eave spouts erected on any dwelling or business building shall be constructed to drain into

the alleys or shall be buried beneath the sidewalks and drain into the streets where it is found to be impossible to drain said eave spouts into the alley.

SECTION 6-106: DAMAGE

It shall be unlawful for any person to willfully, maliciously, or carelessly injure, change, deface, or destroy any street, sidewalk, building, ditch, drain, or grade within the corporate limits. No person shall cause or permit any offensive or corrosive material to be discharged or thrown out upon any street, sidewalk, alley, or public ground.

SECTION 6-107: CUTTING CURB; DRIVEWAY; PERMIT; DEPOSIT

A. No person shall (1) cut into any paving, curb, or sidewalk for the purpose of constructing a driveway or any other purpose or (2) construct a driveway where no curb cutting is required without having first obtained a permit following the procedures set out herein.

B. Before any permit for curb cutting is issued, the applicant shall:

1. Inform the street commissioner of the place where such cutting is to be done, and it shall be the commissioner's duty to inspect the place of entry into the paving, sidewalk, or curb, before the same is cut.
2. Pay a deposit for all paving, curb, or sidewalk to be cut. Such sum shall be calculated on a per-square-foot cost of construction basis and shall be set by resolution of the Village Board and kept on file in the village office. The deposit shall be retained by the Village for the purpose of replacing the paving, curb, or sidewalk in the event the work is done by the Village. In the event the Village elects to require the applicant to replace the paving, curb, or sidewalk, the deposit shall be retained by the Village until the work is completed to the satisfaction of the street commissioner.

C. All driveway applications shall contain the following information:

1. The addition, block and lot which the driveway is to serve;
2. The location of the proposed driveway with reference to adjacent lot lines;
3. The width of the driveway and type of street surface to which the driveway will connect.

D. Upon approval of said permit by the Village Board and issuance by the village clerk, the applicant shall be required to build said driveway and complete said curb cut to the Village's specifications, including size and type of materials as approved by the village engineer. When the applicant is ready to close the opening made, he or she shall inform the street commissioner, who shall supervise and inspect the materials used and work done in closing the opening.

E. It shall be discretionary with the Village Board to order the street commis-

sioner, under the supervision and inspection of the village engineer or the committee of the board on streets and alleys, to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained such permit.

(Neb. Rev. Stat. §17-567)

SECTION 6-108: HEAVY EQUIPMENT

A. It shall hereafter be unlawful for any person or persons to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing on any unpaved street without first having protected such structure with heavy plank sufficient in strength to warrant against the breakage or damage of the same. It shall be unlawful to drive, move, operate, or convey over or across any paved street a vehicle, machine, or implement with sharp discs or sharp wheels that bear upon said pavement; with wheels having cutting edges; or with wheels having lugs, protruding parts, or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent, or otherwise injure or damage any pavement, gutter, or curb. Where heavy vehicles, structures, and machines move along paved or unpaved streets, the Village Board is hereby authorized and empowered to choose the route over which such moving will be permitted and allowed.

B. It shall be permissible (1) for school buses and emergency vehicles to use metal or metal-type studs any time of the year; (2) to use farm machinery with tires having protuberances which will not damage the streets; and (3) to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to slide or skid.

(Neb. Rev. Stat. §60-6,250)

SECTION 6-109: REAL PROPERTY; ACQUISITION; AUTHORIZATION

When acquiring an interest in real property by purchase or eminent domain, the Village shall do so only after the Village Board has authorized the acquisition by action taken in a public meeting after notice and public hearing. (Neb. Rev. Stat. §18-1755)

SECTION 6-110: REAL PROPERTY; ACQUISITION; APPRAISAL

The Village shall not purchase, lease-purchase or acquire for consideration real property having an estimated value of \$100,000.00 or more unless an appraisal of such property has been performed by a certified real estate appraiser. (Neb. Rev. Stat. §13-403)

SECTION 6-111: REAL PROPERTY; ACQUISITION; CONSTRUCTION; ELECTIONS, WHEN REQUIRED

A. The Village is authorized and empowered to purchase, accept by gift or devise, purchase real estate upon which to erect, and erect a building or buildings for an auditorium, fire station, village building, or community house for housing village enterprises and social and recreation purposes and other public buildings and maintain, manage, and operate the same for the benefit of the inhabitants of the Village.

B. Except as provided below, before any such purchase can be made or building erected, the question shall be submitted to the electors of the Village at a general election or at an election duly called for that purpose, or as set forth in Neb. Rev. Stat. §17-954, and be adopted by a majority of the electors voting on such question.

C. If the funds to be used to finance the purchase or construction of a building pursuant to this section are available other than through a bond issue, then either:

1. Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the Village and no election shall be required to approve the purchase or construction unless within 30 days after the publication of the notice a remonstrance against the purchase or construction is signed by electors of the Village equal in number to 15% of the registered voters of the Village voting at the last regular village election held therein and is filed with the Village Board. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be considered timely if filed or postmarked on or before the next business day. If a remonstrance with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the Village at a general village election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then nor within one year following the election be purchased or constructed; or
2. The Village Board may proceed without providing the notice and right of remonstrance required in subdivision (1) of this subsection if the property can be purchased below the fair market value as determined by an appraisal, there is a willing seller, and the purchase price is less than \$25,000.00. The purchase shall be approved by the board after notice and public hearing as provided in Neb. Rev. Stat. §16-1755.

(Neb. Rev. Stat. §§17-953, 17-953.01)

SECTION 6-112: REAL PROPERTY; SALE AND CONVEYANCE

A. Except as provided in subsection (G), 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 of such real property.

B. After the passage of the resolution directing the sale, notice of all proposed sales of property described in subsection (A) of this section and the terms thereof shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in the Village.

C. If within 30 days after the third publication of the notice a remonstrance against such sale is signed by registered voters of the Village equal in number to 30 percent of the registered voters of the Village voting at the last regular municipal election held therein and is filed with the Village Board, such property shall not then, nor

within one year thereafter, be sold. The procedure for determining the validity of the said remonstrance shall be as provided in Neb. Rev. Stat. §17-503(3).

D. Real property now owned or hereafter owned by the Village may be conveyed without consideration to the State of Nebraska for state armory sites or, if acquired for state armory sites, shall be conveyed strictly in accordance with the conditions of Neb. Rev. Stat. §§18-1001 to 18-1006.

E. Following (1) passage of the resolution directing a sale, (2) publishing of the notice of the proposed sale, and (3) passing of the 30-day right-of-remonstrance period, the property shall then be sold. Such sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale.

F. Notwithstanding the procedures in subsections (A) through (E) of this section, real property owned by the Village may be conveyed when such property:

1. Is sold in compliance with the requirements of federal or state grants or programs;
2. Is conveyed to another public agency; or
3. Consists of streets and alleys.

G. Subsections (A) to (F) of this section shall not apply to the sale of real property if the authorizing resolution directs the sale of an item or items of real property having a total fair market value of less than \$5,000.00. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the Village for a period of not less than seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required.

(Neb. Rev. Stat. §§17-503, 17-503.01)

SECTION 6-113: PERSONAL PROPERTY; SALE AND CONVEYANCE

In order to sell personal property owned by the Village, the Village Board shall adopt a resolution directing the sale and the manner and terms of the sale. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the Village for a period of not less than seven days prior to the sale of the property. If the fair market value of the property is greater than \$5,000.00, notice of the sale shall also be published once in a legal newspaper in or of general circulation in such village at least seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. When such personal property is being sold in compliance with the requirements of federal or state grants or programs or conveyed to another public agency, the notice procedure set forth above may be dispensed with. (Neb. Rev. Stat. §17-503.02)

Article 2 – Streets

SECTION 6-201: DEDICATION TO PUBLIC USE

No street or alley which shall hereafter be dedicated to public use by the proprietor of ground in the Village shall be deemed a public street or alley or be under the use or control of the Village Board unless the dedication shall be accepted and confirmed by an ordinance especially passed for such purpose. (Neb. Rev. Stat. §17-567)

SECTION 6-202: NAMES AND NUMBERS

The Village Board may at any time by ordinance rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along such streets shall retain such numbers as the board may require. Upon the erection of any new building, it shall be the duty of the street commissioner to assign the proper number to said building and give notice to the owner(s) and occupant(s) of the same.

SECTION 6-203: CROSSINGS

The Village Board may order and cause street, avenue, and alley crossings to be constructed under the supervision of the street commissioner and the same shall be constructed of such materials as the board shall deem necessary. When a petition for the construction of any such crossing is filed by an interested resident in the office of the village clerk, he or she shall refer such application to the street commissioner, who shall investigate and recommend to the board allowance or rejection as final action by the board on such application.

SECTION 6-204: EXCAVATION

It shall be unlawful for any person to make an excavation in any street for any purpose whatsoever unless a written permit is issued by the street commissioner, authorizing such excavation. (Neb. Rev. Stat. §17-567)

SECTION 6-205: SNOW, DEBRIS, ETC.

It shall be unlawful to place, push, or deposit snow, sleet, ice, mud, or any lawn debris, including leaves, grass, and branches, from private property onto the streets of the Village. (Neb. Rev. Stat. §17-557)

SECTION 6-206: DRIVING STAKES

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without authorization from the Village. (Neb. Rev. Stat. §17-567)

SECTION 6-207: MIXING CONCRETE

It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever. (Neb. Rev. Stat. §17-567)

SECTION 6-208: HARMFUL LIQUIDS

It shall be unlawful for any person to place or permit to leak in the gutter of any street any waste gasoline, kerosene, or high lubricating oils, which damage or act as a solvent upon said streets. (Neb. Rev. Stat. §17-567)

SECTION 6-209: UTILITY POLES, WIRES, MAINS

A. Poles, wires, gas mains, pipelines, and other appurtenances of public service companies shall be located or erected over, upon, or under the streets, alleys, and common grounds after a proper written application shall have been made to the village clerk and permission in writing given by the Village Board. When requested by the board, public service companies heretofore or hereafter granted right of way for the erection and maintenance of appurtenances for the purpose of transacting their business upon, under, or over the streets, alleys, and public grounds shall at all times erect, locate, or relocate their said appurtenances to such places and in such manner as shall be designated by said board.

B. Such poles, wires, gas mains, pipelines, and other appurtenances shall be removed or relocated by said companies at their own expense when requested to do so by the Village Board. Whenever it becomes necessary for the board to request such relocation for public safety and convenience, it shall order said relocation by resolution and the village clerk shall notify any company or companies affected. Said companies shall, within 24 hours after receiving notice, at their own expense cause the said appurtenances to be removed or relocated. The Village Board shall designate another location where said appurtenances may be reset or placed. All appurtenances shall be reset, placed, or erected in such manner that they will not interfere with the water system, sewer system, or poles, wires, or mains of any public utility located on the same street or alley or with travel or buildings constructed or hereafter to be constructed. Whenever possible, all said appurtenances shall be confined to the alleys of the Village.

SECTION 6-210: DRIVEWAY APPROACHES

The Village may require the owner of property served by a driveway approach constructed or maintained upon the street right of way to repair or replace any such driveway approach which is cracked, broken, or otherwise deteriorated to the extent that it is causing or is likely to cause damage to or interfere with any street structure, including pavement or sidewalks. The village clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of such owner or the agent of such owner, requiring the repair or replacement of such driveway approach. If within 30 days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the street commissioner may cause such work to be done and assess the cost upon the property served by such approach. (Neb. Rev. Stat. §18-1748)

SECTION 6-211: POWER TO IMPROVE, VACATE, ETC.; IMPROVEMENT

DISTRICTS; SPECIAL ASSESSMENTS; STREETS ON CORPORATE LIMITS

A. The Village Board may grade, partially or to an established grade, change grade, curb, recurb, gutter, regutter, pave, gravel, regravels, widen or narrow streets or roadways, resurface or relay existing pavement, or otherwise improve any streets, alleys, public grounds, or public ways, entirely or partially, and streets which divide the village corporate area and the area adjoining the Village; construct or reconstruct pedestrian walks, plazas, malls, landscaping, outdoor sprinkler systems, fountains, decorative water ponds, lighting systems, and permanent facilities; and construct sidewalks and improve the sidewalk space. These projects may be funded at public cost or by the levy of special assessments on the property especially benefited in proportion to such benefits, except as provided in Neb. Rev. Stat. §§19-2428 to 19-2431.

B. The Village Board may by ordinance create paving, repaving, grading, curbing, recurring, resurfacing, graveling, or improvement districts, to be consecutively numbered, which may include two or more connecting or intersecting streets, alleys, or public ways, and may include two or more of the improvements in one proceeding. All of the improvements which are to be funded by a levy of special assessment on the property especially benefited shall be ordered as provided in Neb. Rev. Stat. §§17-510 to 17-512 unless the board improves a street which divides the village corporate area and the area adjoining the Village.

C. Whenever the Village Board improves any street which divides the village corporate area and the area adjoining the Village, the board shall determine the sufficiency of petition as set forth in Section 6-212 by the owners of the record title representing more than 60% of the front footage of the property directly abutting upon the street to be improved, rather than 60% of the resident owners.

D. Whenever the board shall deem it necessary to make any of the improvements allowed by statute on a street which divides the village corporate area and the area adjoining the Village, the Village Board shall by ordinance create the improvement district pursuant to Section 6-213 (Improvement Districts) and the right of remonstrance shall be limited to owners of record title, rather than resident owners.
(Neb. Rev. Stat. §17-509)

SECTION 6-212: PETITION FOR IMPROVEMENTS

Whenever a petition signed by the owners of record title representing more than 60% of the front footage of the property directly abutting upon the street, streets, alley, alleys, public way, or the public grounds proposed to be improved shall be presented and filed with the village clerk, petitioning therefor, the Village Board shall by ordinance create a paving, graveling, or other improvement district or districts and shall cause such work to be done or such improvement to be made. The board shall contract therefor and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street, streets, alley, or alleys especially benefited thereby in such

district in proportion to such benefits, except as provided in Neb. Rev. Stat. §§19-2428 to 19-2431, to pay the cost of such improvement. The board shall have the discretion to deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the board should deny a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties. (Neb. Rev. Stat. §17-510)

SECTION 6-213: IMPROVEMENT DISTRICTS; OBJECTIONS

A. Whenever the Village Board deems it necessary to make any improvements as provided in Section 6-211 allowed by statute which are to be funded by a levy of special assessment on the property especially benefited, the board shall by ordinance create a paving, graveling, or other improvement district and after the passage, approval, and publication or posting of such ordinance shall publish notice of the creation of any such district for six days in a legal newspaper of the Village, if a daily newspaper, or for two consecutive weeks if a weekly newspaper. If no legal newspaper is published in the Village, the publication shall be in a legal newspaper of general circulation in the Village.

B. If the owners of the record title representing more than 50% of the front footage of the property directly abutting on the street or alley to be improved file with the village clerk within 20 days after the first publication of such notice written objections to the creation of such district, such improvement shall not be made as provided In such ordinance but the ordinance shall be repealed. If objections are not filed against the district in the time and manner prescribed in this section, the Village Board shall immediately cause such work to be done or such improvement to be made, shall contract for the work or improvement, and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street or alley especially benefited in such district in proportion to such benefits to pay the cost of such improvement.

(Neb. Rev. Stat. §17-511)

SECTION 6-214: IMPROVEMENT OF MAIN THOROUGHFARES

The Village Board shall have power by a three-fourths vote to enact an ordinance creating a paving, graveling or other improvement district and to order such work to be done without petition upon any federal or state highways in the Village or upon a street or route designated by the board as a main thoroughfare, connecting to either a federal or state highway or a county road. The board shall contract therefor and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street, alley or alleys especially benefited thereby in such district in proportion to such benefits to pay the cost of such improvement. (Neb. Rev. Stat. §17-512)

SECTION 6-215: IMPROVEMENT; PROTESTS OR PETITIONS

Before proceeding with any improvement under Section 6-211, the sufficiency of protests or petitions or of the existence of the required facts and conditions shall be

determined by the Village Board at a hearing of which notice shall be given to all persons who may become liable for assessments by one publication in each of two successive weeks in a legal newspaper in or of general circulation in the Village. Appeal from the action of the board may be made to the District Court. The sufficiency of the protests or petitions referred to in Sections 6-212 and 6-213 as to the ownership of the property shall be determined by the record in the office of the county clerk or register of deeds at the time of the adoption of such ordinance. In determining the sufficiency of the petitions or objections, intersections shall be disregarded, and any lot or ground owned by the Village shall not be counted for or against such improvement. (Neb. Rev. Stat. §17-513)

SECTION 6-216: 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 such 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 such 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 chairman and Village Board may levy and collect special taxes and assessments or issue paving bonds as provided in Neb. Rev. Stat. §18-2003.
(Neb. Rev. Stat. §§18-2001 through 18-2004)

SECTION 6-217: IMPROVEMENTS; ASSESSMENT AND COLLECTION

Assessments for improvements made under the provisions herein shall be made and assessed in the following manner:

A. Such assessments shall be made by the Village Board 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 thereon by "yeas" and "nays," shall be spread at length upon 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 newspaper published or of general circulation in said village at least four weeks before the same shall be held or, in lieu thereof, personal service may be had upon persons owning or occupying property to be assessed.

B. All such assessments shall be known as "special assessments for improve-

ments” 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.

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

(Neb. Rev. Stat. §17-524)

SECTION 6-218: DEFERRAL FROM SPECIAL ASSESSMENTS

A. Whenever the Village Board creates an improvement district which includes land adjacent to the Village within an agricultural use zone and is used exclusively for agricultural use, the owners of record of such adjacent land may apply for a deferral from special assessments. For purposes of this section, the terms "agricultural use" and "agricultural use zone" shall have the meaning specified in Neb. Rev. Stat. §77-1343.

B. Any owner of record eligible for the deferral granted by this section shall make application to the Village Board within 90 days after creation of an improvement district. Any owner of record who makes application for the deferral provided by this section shall notify the county register of deeds of such application in writing prior to approval by the Village Board. The board shall approve the application of any owner of record upon determination that the property (1) is within an agricultural use zone and is used exclusively for agricultural use, and (2) the owner has met the requirements of this section.

C. The deferral provided for in this section shall be terminated upon any of the following events:

1. Notification by the owner of record to the Village Board to remove such deferral;
2. Sale or transfer to a new owner who does not make a new application within 60 days of the sale or transfer, except as provided in subdivision 3 of this section;
3. Transfer by reason of death of a former owner to a new owner who does not make application within 125 days of the transfer;
4. Use of land is no longer agricultural; or
5. Change of zoning to other than an agricultural zone.

D. Whenever property which has received a deferral pursuant to this section becomes disqualified for such deferral, the owner of record of such property shall pay to the Village an amount equal to:

1. The total amount of special assessments which would have been assessed against such property, to the extent of special benefits, had such deferral not been granted; and
2. Interest upon the special assessments not paid each year at the rate of 6% from the dates at which such assessments would have been payable if no deferral had been granted.

E. In cases where the deferral provided by this section is terminated as the result of a sale or transfer described in subsection (B) or (C) of this section, the lien for assessments and interest shall attach as of the day preceding such sale or transfer. (Neb. Rev. Stat. §§19-2428 through 19-2431)

SECTION 6-219: VACATING PUBLIC WAYS

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 or by the owners of the property therein shall be ascertained in such manner as shall be provided herein.

A. Whenever any street, avenue, alley, or lane is vacated, the same shall revert to the owners of the abutting real estate, one-half on each side thereof, and become a part of such 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.

B. When a portion of a street, avenue, alley, or lane is vacated only on one side of the center thereof, the title to such land shall vest in the owner of the abutting property and become a part of such property unless the Village reserves title in the ordinance vacating a portion of 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.

C. 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 county register of deeds to be indexed against all affected lots.

D. The title to property vacated pursuant to this section shall be subject to the following:

1. There is reserved to the Village the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated there; and

2. There is reserved to the Village, any public utilities, and any cable television systems the right to maintain, repair, renew, and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, above, on, or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times.

(Neb. Rev. Stat. §17-558)

Article 3 – Sidewalks

SECTION 6-301: DUTY TO KEEP CLEAN

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on any sidewalk or to permit any snow, sleet, ice, mud, or other substance to remain upon said sidewalk. All sidewalks shall be cleaned as soon as possible after the cessation of a storm. (Neb. Rev. Stat. §§17-557, 17-557.01)

SECTION 6-302: CONSTRUCTION OR REPAIR BY OWNER; APPLICATION, PERMIT

A. Any person desiring to construct or cause to be constructed any sidewalk shall do so only as provided herein. It shall be unlawful for any person to construct any sidewalk without first having made application with the village clerk and obtaining a permit. The public works director shall issue the desired permit unless good cause shall appear why said permit should be denied. The permit shall give a description of the lot or piece of land along which the sidewalk is to be constructed.

B. 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 public works director. If it is desired to construct the sidewalk at any other than the regularly prescribed location, grade, elevation, and thickness, the public works director shall submit the application to the Village Board, which shall determine whether the permit should be granted or denied.

SECTION 6-303: CONSTRUCTION OR REPAIR; ORDERED BY VILLAGE

A. Every owner of any lot or piece of land within the corporate limits shall at all times keep and maintain the sidewalk along and contiguous to said lot, lots, or pieces of land in good and proper repair and in a condition reasonably safe for travel for all travelers thereon.

B. The chairman and board may construct and repair sidewalks or cause the construction and repair of sidewalks in such manner as they deem 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:

1. By publication in one issue of a legal newspaper in or of general circulation in such Village and
2. By either (a) causing a written notice to be served upon the occupant in possession of the property involved or (b) to be posted upon such premises ten days prior to the commencement of such construction or repair.

C. All sidewalks shall be constructed or repaired in conformity with such plans, specifications, and materials as may be approved by the Village Board.

D. If any owner shall fail to construct or repair any sidewalk in front of his or her property within the time and in the manner as directed herein after having received due notice to do so, the chairman and board may cause the sidewalk to be constructed or repaired and may assess the cost thereof against the property. The owner shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk.

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

F. The powers conferred under this section are in addition to those provided in Neb. Rev. Stat. §§17-509 to 17-521 and may be exercised without creating an improvement district.
(Neb. Rev. Stat. §§17-522)

SECTION 6-304: IMPROVEMENTS; ASSESSMENT AND COLLECTION

Assessments for improvements made under the provisions herein shall be made and assessed as provided in Section 6-217 (Improvements; Assessment and Collection).
(Neb. Rev. Stat. §§17-524)

SECTION 6-305: CONSTRUCTION BY PETITION; IMPROVEMENT DISTRICT; SPECIAL ASSESSMENTS; ABUTTING OWNER

A. If the owners of the record title representing more than 60% of the front footage of the properties directly abutting upon the street proposed to be improved with a sidewalk shall sign a petition and present it to the village clerk for filing, petitioning therefor, the Village Board shall by ordinance create a paving or other improvement district, cause such work to be done or such improvement to be made, contract therefor, and levy special assessments on the lots and parcels of land abutting on or adjacent to such streets or alleys specially benefited thereby in such district in proportion to such benefits, except as provided in Neb. Rev. Stat. §§19-2428 to 19-2431, to pay the cost of such improvement. The Village Board may deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the board denies a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties.

B. Upon the petition of any property owner who is an abutting owner in fee simple of property subject to assessment for sidewalk improvements, the Village Board may order permanent sidewalks built in accordance with this article upon the owner making, executing, and delivering to the Village an agreement to the effect that the petitioning freeholder will pay the engineering service fee and all other incidental construction costs which until paid shall be a perpetual lien upon the real estate along

which the owner desires such sidewalk to be constructed and that the petitioner gives and grants to the Village the right to assess and levy the costs of such construction against the owner's real estate abutting the sidewalk improvement and promises to pay such costs with interest. The total cost of such improvement shall be levied, allocated, financed, and specially assessed as provided by law.

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

(Neb. Rev. Stat. §§17-510)

Article 4 – Penal Provision

SECTION 6-401: VIOLATION; PENALTY

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

CHAPTER 7 – PUBLIC UTILITIES

ARTICLE 1 – UTILITIES GENERALLY

SECTION 7-101: VILLAGE POWERS; RATE SETTING

SECTION 7-102: MANDATORY USE OF VILLAGE SERVICES

SECTION 7-103: CONSUMER'S APPLICATION; SERVICE DEPOSIT

SECTION 7-104: SERVICE TO NONRESIDENTS

SECTION 7-105: SERVICE CONTRACT; NOT TRANSFERABLE

SECTION 7-106: BILLING AND COLLECTIONS; DELINQUENCY

**SECTION 7-107: DISCONTINUANCE OF SERVICE; NOTICE;
PROCEDURE**

SECTION 7-108: PLUMBER'S LIABILITY

SECTION 7-109: LIEN

SECTION 7-110: DIVERSION OF SERVICES; UNLAWFUL ACTS

SECTION 7-111: DIVERSION OF SERVICES; PENALTY

ARTICLE 2 – WATER DEPARTMENT

SECTION 7-201: MANAGEMENT

SECTION 7-202: CONNECTION TO WATER SYSTEM

SECTION 7-203: PROHIBITION OF LEAD PIPES, SOLDER AND FLUX

SECTION 7-204: WATER METERS REQUIRED; LAWFUL USE

SECTION 7-205: INSTALLATION; EXPENSE

SECTION 7-206: REPAIRS AND MAINTENANCE

SECTION 7-207: INSTALLATION OR REPAIR PROCEDURE

SECTION 7-208: RIGHT OF ENTRY FOR INSPECTION

SECTION 7-209: DESTRUCTION OF PROPERTY

SECTION 7-210: FIRE HYDRANTS

SECTION 7-211: POLLUTION

SECTION 7-212: BACKFLOW PREVENTION

SECTION 7-213: RESTRICTED USE

**SECTION 7-214: WELLS AND OTHER UNDERGROUND FACILITIES;
DISTANCE FROM VILLAGE WATER SOURCES**

ARTICLE 3 – SEWER DEPARTMENT

SECTION 7-301: MANAGEMENT

**SECTION 7-302: UNLAWFUL DEPOSITS AND DISCHARGES;
PROHIBITED FACILITIES**

SECTION 7-303: CONNECTION TO SEWER SYSTEM

SECTION 7-304: INSTALLATION EXPENSE

SECTION 7-305: REPAIRS AND MAINTENANCE

SECTION 7-306: INSTALLATION OR REPAIR; PROCEDURE, MATERIALS

**SECTION 7-307: INSTALLATION; INDEPENDENT CONNECTION;
EXCEPTION**

**SECTION 7-308: INSTALLATION; UNLAWFUL CONNECTION; POLLUTED
DRAINAGE**

SECTION 7-309: INSTALLATION; USE OF EXISTING SEWERS

SECTION 7-310: MANHOLES

SECTION 7-311: DESTRUCTION OF PROPERTY

ARTICLE 4 – ELECTRIC SYSTEM

SECTION 7-401: LICENSED ELECTRICIAN

SECTION 7-402: INSTALLATION EXPENSE

SECTION 7-403: METER READINGS

SECTION 7-404: METER TESTING

SECTION 7-405: METER IN DISREPAIR

SECTION 7-406: RESTRICTED USE

SECTION 7-407: POSTING SIGNS

SECTION 7-408: TRIMMING TREES

SECTION 7-409: INSPECTIONS

SECTION 7-410: DESTRUCTION OF PROPERTY

ARTICLE 5 – SOLID WASTE

SECTION 7-501: OWNER'S RESPONSIBILITY

SECTION 7-502: MANDATORY COLLECTION

SECTION 7-503: COLLECTION FEES

ARTICLE 6 – PENAL PROVISION

SECTION 7-601: VIOLATION; PENALTY

CHAPTER 7 – PUBLIC UTILITIES

Article 1 – Utilities Generally

SECTION 7-101: VILLAGE POWERS; RATE SETTING

The Village currently owns and operates the village electrical system, a water supply and distribution system and a sanitary sewer disposal and treatment system. The Village has the right and power to tax assets and collect payment from its residents for use of the electricity and water supplied to them by the water system and for use of the sewer system. The Village Board is authorized to establish by ordinance such rates for electrical, water and sewer service as may be deemed fair and reasonable. All such rates, taxes, or rent shall be a lien upon the premises or real estate for which the same is used or supplied and such rates, taxes, or rent shall be paid and collected and such lien enforced in such manner as the board shall by ordinance direct and provide. All such rates, taxes, or rent shall be kept on file in the office of the village clerk for public inspection. (Neb. Rev. Stat. §§17-538, 17-542, 17-925.1, 18-509)

SECTION 7-102: MANDATORY USE OF VILLAGE SERVICES

All residents of the Village shall be required to subscribe to village utility services. Said residents shall be subject to the assessment and payment of charges for such utility services as set from time to time by the Village Board. (Neb. Rev. Stat. §17-532)

SECTION 7-103: CONSUMER'S APPLICATION; SERVICE DEPOSIT

A. Every person or persons desiring utility services must make application to the village clerk, who shall require the applicant to make a service deposit in such amount as set by resolution by the Village Board and kept on file at the village office. At the time any service deposit is returned to the consumer, the Village will not pay any interest that may have accrued on such amount.

B. The application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the village clerk. Utility services shall not be supplied to any house or private service pipe except upon the order of the utility superintendent.

C. No applicant for the services of a public or private utility company furnishing water, natural gas, or electricity in this village shall be denied service because of unpaid bills for similar service which are not collectible at law because of statutes of limitations or discharge in bankruptcy proceedings.
(Neb. Rev. Stat. §§17-537, 17-925.02, 19-2701, 70-1601)

SECTION 7-104: SERVICE TO NONRESIDENTS

Any person whose premises are located outside the corporate limits of the Village and who desires to connect to village water, sewer and electric service shall file a written application with the village clerk for a permit for such connections, setting forth the name of the owner, occupant or lessee of the premises, the use to which the premises are devoted, and such other information as the Village Board may require.

The entire cost of pipes, wires, installation, and other charges shall be paid by such consumer. Nonresidents shall pay such costs as have been set by the board by resolution. The extension of commercial mains into unsupplied territory within the corporate limits may be made by means of water extension districts. Nothing herein shall be construed to obligate the Village to provide utility service to nonresidents. (Neb. Rev. Stat. §§17-537, 18-508, 19-2701)

SECTION 7-105: SERVICE CONTRACT; NOT TRANSFERABLE

A. The rules, regulations, and rates set forth in this chapter shall be considered a part of every application hereafter made for utility services and shall be considered a part of the contract between the Village and every consumer now or hereafter served.

B. The making of application on the part of any applicant for the use of village utilities by a new consumer thereof and the furnishing of utility services to said consumer shall constitute a contract between the consumer and the Village, 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 Village Board may hereafter adopt, the utility superintendent may cut off or disconnect the water and electric service from the building or premises of such violation. No further connection for service to said building or premises shall again be made save or except by order of said superintendent.

C. Contracts for utility services are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall sell, dispose of, or move from the premises where service is furnished or if the said premises are destroyed by fire or other casualty, he or she shall at once inform the village clerk, who shall cause the utility services to be discontinued at the said premises. If the consumer should fail to give such notice, he or she shall be charged for utility services monthly until the Village is otherwise advised of such circumstances.

(Neb. Rev. Stat. §17-537)

SECTION 7-106: BILLING AND COLLECTIONS; DELINQUENCY

A. Joint electrical, water, sewer, and garbage pickup bills shall be due and payable monthly at the office of the village clerk. Bills shall be issued on the 20th day of each month. Bills not paid within 30 days of billing shall be determined delinquent and shall incur a late fee of 10% of the amount due. If the bill has not been paid after 30 days from date of billing, the village clerk shall give a written notice to the customer of such delinquency and shall demand payment immediately.

B. In the event that the bill is not paid within the following two Mondays after the sending of said notice, it shall be discretionary with the electrical superintendent and the village clerk to cut off service in compliance with Section 7-107. There shall be a disconnection charge when service is cut off and a reconnection charge for

restoration of service. All fees and charges herein shall be as set by resolution by the Village Board and kept on file in the office of the village clerk. All amounts due the Village shall be paid in full by the delinquent consumer before service will be restored. (Neb. Rev. Stat. §§17-538, 17-542)

SECTION 7-107: DISCONTINUANCE OF SERVICE; NOTICE; PROCEDURE

A. No village utility shall discontinue service to any domestic subscriber for nonpayment of any past due account unless such utility shall first give written notice by first-class mail or in person to any subscriber whose service is proposed to be terminated. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days after notice is sent or given. Holidays and weekends shall be excluded from the seven days.

B. Each utility subject to subsection (A) shall establish a third-party notice procedure for the notification of a designated third party of any proposed discontinuance of service and shall advise its subscribers, including new subscribers, of the availability of such procedures.

C. If any subscriber has previously been identified to the utility as a recipient of assistance from the Department of Social Services, such notice shall be by certified mail to the subscriber and to Social Services.

D. The notice required by subsection (A) above shall contain the following information:

1. The reason for the proposed disconnection;
2. A statement of intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the utility regarding payment of the bill;
3. The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
4. The name, address, and telephone number of the utility's employee or department to whom the domestic subscriber may address any inquiry or complaint;
5. The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection, as provided in subsection (E) below;
6. A statement that the utility may not disconnect service pending the conclusion of the conference;
7. A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that a domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would

cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the utility within five days of receiving notice under this section and will prevent the disconnection of the utility's service for a period of thirty days from such filing. Only one postponement of disconnection shall be allowed under this subdivision for each incidence of nonpayment of any past-due account;

8. The cost that will be borne by the domestic subscriber for restoration of service;
9. A statement that the domestic subscriber may arrange with the utility for an installment payment plan;
10. A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and
11. Any additional information not inconsistent with this section which has received prior approval from the Village Board.

E. A domestic subscriber may request a conference in regard to any dispute over a proposed discontinuance of service before the Village Board, which shall hear and decide all matters disputed by a domestic subscriber. The subjects to be heard shall include matters relating to a disputed bill.

F. This section shall not apply to any disconnections or interruptions of service made necessary by the Village for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.

(Neb. Rev. Stat. §§70-1605 through 70-1608)

SECTION 7-108: PLUMBER'S LIABILITY

All work by plumbers shall be done in the manner required by the utility superintendent and shall be at all times subject to the inspection and approval of the superintendent. Plumbers who connect with the public water or sewer system shall be held responsible for any damage to the pipes or the public ways and property and shall restore all excavated streets to the complete satisfaction of the utility superintendent. It shall be unlawful to cover or conceal willfully any defective or unsatisfactory work.

(Neb. Rev. Stat. §17-537)

SECTION 7-109: LIEN

In addition to all other remedies, if a consumer shall for any reason remain indebted to the Village for utility services furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent utility rent which is hereby declared to be a lien upon the real estate for which the same was used. The village clerk shall notify in writing all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of utility charges. It shall be the duty of the village clerk to report monthly to the Village Board a list of all unpaid accounts due for utilities which are more than 60 days delinquent, together

with a description of the premises upon which the same were used. The report shall be examined and if approved by the board, shall be certified by the village clerk to the county clerk to be collected as a special tax in the manner provided by law. (Neb. Rev. Stat. §§17-538, 17-925.01, 18-503)

SECTION 7-110: DIVERSION OF SERVICES; UNLAWFUL ACTS

A. Any person who connects any instrument, device, or contrivance with any wire supplying or intended to supply electricity or electric current or connects any pipe or conduit supplying gas or water, without the knowledge and consent of the supplier of such products, in such manner that any portion thereof may be supplied to any instrument by or at which electricity, electric current, gas, or water may be consumed without passing through the meter made or provided for measuring or registering the amount or quantity thereof passing through it, and any person who knowingly uses or knowingly permits the use of electricity, electric current, gas, or water obtained unlawfully pursuant to this section, shall be deemed guilty of an offense.

B. If water meters are not in use in the Village, any person who connects any pipe or conduit supplying water without the knowledge and consent of the supplier of such product in such manner that any portion thereof may be supplied to any instrument by or at which water may be consumed without the knowledge and consent of the supplier, and any person who knowingly uses or knowingly permits the use of water obtained unlawfully pursuant to this section, shall be deemed guilty of an offense.

C. Any person who reconnects electrical, gas, or water service without the knowledge and consent of the supplier of such service if the service has been disconnected pursuant to Neb. Rev. Stat. §§70-1601 to 70-1615 or Section 7-107 of this code shall be deemed guilty of an offense.

D. Any person who willfully injures, alters, or by any instrument, device, or contrivance in any manner interferes with or obstructs the action or operation of any meter made or provided for measuring or registering the amount or quantity of electricity, electric current, gas, or water passing through it without the knowledge and consent of the supplier of the electricity, electric current, gas, or water passing or intended to pass through such meter shall be deemed guilty of an offense.

E. Proof of the existence of any wire, 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. (Neb. Rev. Stat. §28-515.02)

SECTION 7-111: DIVERSION OF SERVICES; PENALTY

A. The Village may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts bypassing, tampering, or unauthorized metering when such act results in damages to a village utility. The Village

may bring a civil action for damages pursuant to this section against any person receiving the benefit of utility service through means of bypassing, tampering, or unauthorized metering.

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

1. The amount of actual damage or loss if such amount may be reasonably calculated; or
2. Liquidation damages of \$750.00 if the amount of actual damage or loss cannot be reasonably calculated.

C. In addition to damage or loss under subdivision (B)(1) or (2), the Village may recover all reasonable expenses and costs incurred on account of the bypassing, tampering, or unauthorized metering, including but not limited to disconnection, reconnection, service calls, equipment, costs of the suit, and reasonable attorney's fees in cases within the scope of Neb. Rev. Stat. §25-1801.

D. There shall be a rebuttable presumption that a tenant or occupant at any premises where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the tenant or occupant (1) had access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering is proven to exist and (2) was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.

E. There shall be a rebuttable presumption that a customer at any premises where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the customer controlled access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering was proven to exist.

F. The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws, and the remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common law remedies.

(Neb. Rev. Stat. §§25-21,276 through 25-21,278)

Article 2 – Water Department

SECTION 7-201: MANAGEMENT

The utility superintendent shall have the direct management and control of the Water Department and shall faithfully carry out the duties of his office. The 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 Village Board. (Neb. Rev. Stat. §§17-531, 17-534, 19-1305)

SECTION 7-202: CONNECTION TO WATER SYSTEM

A. The Village 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. All persons whose property is within 300 feet of a main shall be required, upon notice by the Village Board, to hook up with the village water system.

B. The Village may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a village commercial main is now or may hereafter be laid with permission from the Village Board; provided, the entire cost of pipe and other installation charges shall be paid by such consumer. Nothing herein shall be construed to obligate the Village to provide water service to persons whose property line is not within 300 feet of the said main.

C. Each primary structure hereafter erected shall be connected with the water system at the time of its erection. In the event any owner, occupant, or lessee shall neglect, fail, or refuse to make such connection within a period of ten days after the notice has been given to do so by regular mail or by publication in a newspaper in or of general circulation in the Village, the Village Board shall have the power to cause the same to be done, to assess the cost thereof against the property, and to collect the water bills in the manner provided for collection of other special taxes or assessments or to collect in the manner provided for the collection of water bills as provided herein.

(Neb. Rev. Stat. §17-537)

D. Private wells previously constructed and operating prior to the Village's establishment of its water system shall be permitted to operate, providing that such well complies with other existing, applicable ordinances and does not violate applicable state laws or regulations promulgated by the Nebraska Department of Health.

(Neb. Rev. Stat. §17-532)

SECTION 7-203: PROHIBITION OF LEAD PIPES, SOLDER AND FLUX

Any pipe, solders, or flux used in the installation or repair of any residential or nonresidential building which is connected to the public water supply system shall be lead-free. For purposes of this section, "lead-free" shall mean (A) solders and flux, not more than .2% lead and (B) pipe and pipe fittings, not more than .25% lead. (Neb. Rev. Stat. §71-5301)

SECTION 7-204: WATER METERS REQUIRED; LAWFUL USE

All municipal water use shall be metered as provided in this article. Municipal water shall not be utilized to irrigate crops or other agricultural products; provided, watering of gardens and lawns with municipal water shall be allowed.

SECTION 7-205: INSTALLATION; EXPENSE

A. The Village shall pay the cost of tapping the water main, installing the meter, and providing fixtures and labor up to and including the stop box at the lot line of the customer. No person other than the utility superintendent or his duly authorized agent shall tap the main.

B. Excluding the above costs of tapping the main, installing the meter and installing the stop box, the customer shall, at his or her own expense, bring water service from the main up to and upon his or her own premises and may be required by the Village to employ a licensed plumber to install water service to the place of dispersion.

C. Nonresidents shall pay such installation charges in such sums as the utility superintendent, pursuant to resolution of the Village Board, shall in each case fix. The extension of commercial mains into unsupplied territory within the corporate limits may be made by means of water extension districts.

D. If commercial mains are not laid along the street abutting applicant's property and if a water main district is not created or extended, applicant may, at his or her own expense under the approval and direction of the utility superintendent, pay the costs of trenching, pipe installation, labor, and attachments necessary to bring water service from the nearest commercial main to applicant's premises.

(Neb. Rev. Stat. §17-542)

SECTION 7-206: REPAIRS AND MAINTENANCE

A. The Village shall repair or replace, as the case may be, all supply pipe between the commercial main and the stop box. The customer at his or her own expense shall replace and keep in repair all service pipe from the stop box to the place of dispersement. When leaks occur in service pipes, the utility superintendent shall shut off water service until the leak is repaired at the expense of the customer to the satisfaction of the superintendent.

B. All water meters shall be kept in repair by the Village at its expense. When meters are worn out, they shall be replaced and reset by the Village at its expense; provided, if the customer permits or allows a water meter to be damaged, injured, or destroyed through his or her own recklessness, carelessness, or neglect so that the meter must be repaired or replaced, the superintendent shall bill and collect from the customer the cost of such meter repair or replacement in the same manner as water rent is collected. Permitting a water meter to be damaged or destroyed by freezing

shall always be considered negligence on the part of the customer.

C. All meters shall be tested at the customer's request at his or her expense any reasonable number of times; provided, if the test shows the water meter to be running 2% or more fast, the Village shall bear the expense of such test. The Village reserves the right to test any water service meter at any time and if said meter is found to be beyond repair, the Village shall always have the right to place a new meter on the customer's water service fixtures at village expense. Should a consumer's meter fail to register properly, the customer shall be charged for water during the time the meter is out of repair on the basis of the monthly consumption during the same month of the preceding year; provided, if no such basis for comparison exists, the customer shall be charged such amount as may be reasonably fixed by the utility superintendent.

(Neb. Rev. Stat. §17-537)

SECTION 7-207: INSTALLATION OR REPAIR PROCEDURE

A. In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe or making repairs, the paving and earth must be removed and deposited in a manner that will be least inconvenient to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade and, during the night, warning lights.

B. After service pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of 24 hours or more, the utility superintendent shall have the duty to finish or correct the work and all expenses so incurred shall be charged to the consumer.

C. All installations or repairs of pipes require an inspection by the utility superintendent and shall be made when connections or repairs are complete and before the pipes are covered. It is the customer's responsibility to notify the utility superintendent at the time the work is ready for inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications prescribed for such installation by the superintendent; provided, the said rules, regulations, and specifications have been reviewed and approved by the Village Board.

(Neb. Rev. Stat. §§17-537, 71-5301)

SECTION 7-208: RIGHT OF ENTRY FOR INSPECTION

The utility superintendent or his duly authorized agent shall have free access at any reasonable time to all parts of each premises and building to or in which water is delivered for the purpose of examining the pipes, fixtures, and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water. (Neb. Rev. Stat. §17-537)

SECTION 7-209: DESTRUCTION OF PROPERTY

It shall be unlawful for any person to willfully or carelessly break, injure, or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the Water Department. No person may deposit anything in a stop box or commit any act tending to obstruct or impair the intended use of any of the above-mentioned property without the written permission of the utility superintendent.

SECTION 7-210: 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 (A) members of the Fire Department under the orders of the fire chief or the assistant chief or (B) employees of the Water Department to open or attempt to open any of the hydrants and draw water from the same or in any manner to interfere with the hydrants.

SECTION 7-211: POLLUTION

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Water Department. The standards for water quality established or adopted by the state shall be presumptive evidence as to when the water is deemed to be polluted under this section. (Neb. Rev. Stat. §§17-536, 18-1720, 28-1321)

SECTION 7-212: BACKFLOW PREVENTION

A. A customer of the Water Department may be required by the utility superintendent to install and maintain at his or her expense a properly located backflow prevention device appropriate to the potential hazards set forth in Nebraska Department of Health's Title 179 and approved by the superintendent.

B. The customer shall make application to the utility superintendent on a form provided by the Village for installation of a required backflow prevention device. The installation shall be subject to all other sections of this code dealing with installation of plumbing, including the use of a licensed plumber, if applicable.

C. Every backflow prevention device equipped with a test port shall be tested as often as required by the Village but at least once each year by a Grade 6 certified water operator, with test results certified to the Village as often as required but in no case more than 30 calendar days after the test. Such certification shall be made on a form available at the village office.

D. All customers of the Water Department shall be required to report to the utility superintendent at least every five years any potential backflow hazards which may be on their premises.

SECTION 7-213: RESTRICTED USE

The Village Board or the utility superintendent may order a reduction in the use of water or shut off the water on any premises in the event of a water shortage due to fire, drought, or other good and sufficient cause. The Village shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the Village has no control. (Neb. Rev. Stat. §17-537)

SECTION 7-214: WELLS AND OTHER UNDERGROUND FACILITIES; DISTANCE FROM VILLAGE WATER SOURCES

A. It shall be unlawful to cause pollution to or be in a position to cause pollution to the public water supply by willfully or carelessly allowing the following facilities, acts, or events within the specified footage of any village public water supply well. The following facilities, acts, or events shall be defined as nuisances for purposes of this section:

Water well	1,000 feet
Sewage lagoon	1,000 feet
Land application of municipal/industrial waste material	1,000 feet
Feedlot or feedlot runoff	1,000 feet
Underground disposal system (septic system, etc.)	500 feet
Corral	500 feet
Pit toilet, vault toilet	500 feet
Wastewater holding tank	500 feet
Sanitary landfill/dump	500 feet
Chemical or petroleum product storage	500 feet
Sewage treatment plant	500 feet
Sewage wet well	500 feet
Sanitary sewer connection	100 feet
Sanitary sewer manhole	100 feet
Sanitary sewer line	50 feet

(Nebraska DHHS 4/4/10)

B. It shall be unlawful for any person, corporation, or other legal entity to drill and/or operate any of the above-named facilities within the corporate limits of the Village or its extraterritorial jurisdiction without first having obtained the proper permit from the Village Board. In order to obtain a permit to drill and/or operate any of the said facilities, the owner of property on which the proposed facility is to be located must make application on the proper form provided by the Village. Such application must be presented to the board at any regular or special meeting. After reviewing the

application of any person desiring to drill or operate any of the facilities described above, then the board must approve or deny said permit.

C. In the event any facility as described herein is installed or operated (1) without first having obtained a permit from the Village and/or (2) within the designated number of feet from the village water supply, then such facility shall be deemed a nuisance and the Village Board shall abate such facility as a public nuisance pursuant to Chapter 3, Article 4 of this code.

Article 3 – Sewer Department

SECTION 7-301: MANAGEMENT

The utility superintendent shall have the direct management and control of the Sewer Department and shall faithfully carry out the duties of his office. He shall have the authority to adopt rules and regulations for the sanitary and efficient management of the department subject to the supervision and review of the Village Board. (Neb. Rev. Stat. §17-925.01)

SECTION 7-302: UNLAWFUL DEPOSITS AND DISCHARGES; PROHIBITED FACILITIES

A. It shall be unlawful for any person to place, deposit, or permit to be deposited any human or animal excrement, garbage, or other objectionable waste in any unsanitary manner on public or private property within the Village, within one mile of the corporate limits thereof, or in any area under the jurisdiction of said village.

B. It shall be unlawful to discharge to any natural outlet within the Village, within one mile of the corporate limits thereof or in any area under its jurisdiction, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsection (E) below.

C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, septic tank, or other similar facility intended or used for the disposal of sewage.

D. Storm water and all other unpolluted drainage including surface water, sub-surface drainage, ground water, and roof runoff shall be discharged to specifically designated combined sewers or storm sewers or to a natural outlet approved by the utility superintendent. Industrial cooling water or unpolluted process water may be discharged, on approval of the utility superintendent, to a storm sewer, combined sewer, or natural outlet. The contributor of any identifiable discharge of polluted water to the sanitary sewer system shall be held responsible for reimbursing the Village for such costs, which shall be as determined by the utility superintendent. It shall further be unlawful to connect or maintain connected to the sanitary sewer system any pump which pumps any of the above-identified kinds of water for any purpose whatsoever.

E. No person shall discharge or cause to be discharged any hazardous waters or wastes into the village sewer system. Specific prohibitions in reference to hazardous discharges, options for handling the same, compliance procedures, and penalties for violations shall be as provided by the requirements of applicable regulations, laws, codes, and ordinances including 40 C.F.R., Part 403.

F. In addition to the other remedies that are provided by this chapter for violations of this code, the Village shall have the right to secure the abatement of any con-

nection or discharging violation of this section.

SECTION 7-303: CONNECTION TO SEWER SYSTEM

A. The owner of any house, building, or property used for human employment, recreation, or other purposes situated within the Village and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer line of the Village is hereby required at the owner's expense to install suitable toilet facilities therein and to connect such facilities directly with the said public sewer in accordance with the provisions of this article within 10 days after date of official notice to do so, provided that said public sewer is within 300 feet of the property line.

B. The Village may furnish sewer service to persons within its corporate limits whose property line is not within 300 feet of the said public sewer with permission from the Village Board, provided that the entire cost of pipe and other installation charges shall be paid by such consumer. Nothing herein shall be construed to obligate the Village to provide sewer service to persons whose property line is not within 300 feet of the said public sewer.

C. Each building hereafter erected shall be connected with the sewer system at the time of its erection. In the event that any property owner, occupant, or lessee shall neglect, fail, or refuse to make such a connection with the public sewer within a period of 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 Village, the Village Board shall have the power to cause the same to be done, to assess the cost thereof against the property, and to collect the assessment thus made in the manner provided for collection of other special taxes and assessments or to collect in the manner provided for the collection of sewer bills as provided herein.

(Neb. Rev. Stat. §18-503)

SECTION 7-304: INSTALLATION EXPENSE

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner, who shall indemnify the Village from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The utility superintendent in his discretion may direct the customer to hire a licensed plumber to tap the main. The customer shall then be required to pay the expense of procuring the materials required and shall pay all other costs of installation.

(Neb. Rev. Stat. §18-503)

SECTION 7-305: REPAIRS AND MAINTENANCE

A. The Sewer Department may require the owner of any property which is 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. All replacements and repairs made by the customer shall be done in the manner and with the materials approved by the utility superintendent, provided the same have been previously approved by the Village Board.

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 utility superintendent shall complete the work and charge the cost of such repairs or replacement to the customer.

(Neb. Rev. Stat. §18-1748)

SECTION 7-306: INSTALLATION OR REPAIR; PROCEDURE, MATERIALS

All installation or repair of any part of the sewerage system shall be done under the supervision of the utility superintendent and strictly in accordance with the rules, regulations, and specifications on file with the village office and prescribed for such installation by the village engineer, provided that the said rules, regulations, and specifications have been reviewed and approved by the Village Board. Where the material proposed to be used for sewerage system installation or repairs is not among those on file in the clerk's office, a determination shall be made and expense paid using the same procedures as prescribed for determinations of materials for water mains, supply lines, and service lines. (Neb. Rev. Stat. §18-503)

SECTION 7-307: INSTALLATION; INDEPENDENT CONNECTION; EXCEPTION

A separate and independent building sewer shall be provided for every building. Where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer; but the Village does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned. (Neb. Rev. Stat. §18-503)

SECTION 7-308: INSTALLATION; UNLAWFUL CONNECTION; POLLUTED DRAINAGE

No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the utility superintendent for purposes of disposal of polluted surface drainage. If responsibility can be determined, the party responsible for disposal of polluted surface drainage into the public sanitary sewer shall pay a user charge equivalent to the cost of treating the polluted drainage.

SECTION 7-309: INSTALLATION; USE OF EXISTING SEWERS

Old building sewers and drains may be used in connection with new buildings or new plumbing only when found, on examination by the utility superintendent, to conform in all respects to the requirements governing new sewers and drains. If the old work is found defective or otherwise unsatisfactory, the superintendent shall notify the owner to make the necessary changes to conform to the provisions of the municipal code.

SECTION 7-310: MANHOLES

Entrance into a manhole or opening for any purpose except by authorized persons is 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.

SECTION 7-311: DESTRUCTION OF PROPERTY

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the wastewater facilities. Any person or persons violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

Article 4 – Electric System

SECTION 7-401: LICENSED ELECTRICIAN

Under no circumstances shall connections be made between the wires of the electric distribution system of this village and the meter of the consumer except by an employee of the Village or a licensed electrician authorized to do so by the utility superintendent. The consumer may have wiring done by any competent licensed electrician from the meter to the points of distribution. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for such installation prescribed by the utility superintendent and building inspector; provided, that such rules, regulations, and specifications have been reviewed and approved by Village Board. (Neb. Rev. Stat. §17-902, 19-1404)

SECTION 7-402: INSTALLATION EXPENSE

A. The expense of installation and equipment up to the electric meter loop, including the meter, shall be paid by the Village. The expense of installation and wiring from and including the meter loop to the points of distribution shall be the responsibility of the customer. Maintenance and replacement expense shall be apportioned in the same manner.

B. Underground installation of electric service shall be required in all new subdivisions and where feasible in any other areas, as designated by the Village. The customer shall pay the entire cost of underground installation except for the meter from the point of tie-in at the secondary distribution system to the point of distribution at the residence or commercial building.

C. In the event an upgrade in electric service is elected by the Village at a time other than application of new or upgraded service by the customer, said service shall be at the expense of the Village.

D. This section shall not operate to prohibit the Village and the consumer from entering into any agreement concerning the allocation of the expenses of the installation of an electric system in the Village; provided, the Village and the customer shall not enter into any agreement regarding the allocation of the expenses of the installation of an electric system in the Village unless two-thirds of the Village Board votes in favor of entering into such an agreement.
(Neb. Rev. Stat. §17-902)

SECTION 7-403: METER READINGS

All electric meters shall be read at least one time each month during which electric service is used. In the event a meter is broken or otherwise fails to register accurately the use of electricity by any consumer, the six-month average of the season one year previous to such breakage shall be used for billing purposes. (Neb. Rev. Stat. §19-1404)

SECTION 7-404: METER TESTING

Each customer who requests that his or her electric meter be checked for accuracy shall be assessed a charge to reimburse the Village for the actual cost of such testing. If the meter proves to be registering inaccurately, resulting in an overcharge to the customer, the dollar assessment shall be returned to the customer. Said assessment shall be as set by the Village Board by resolution and kept on file in the office of the village clerk.

SECTION 7-405: METER IN DISREPAIR

In the event that any customer's meter falls out of repair or fails to register properly, the superintendent shall charge such customer the same amount billed one year previous to such disrepair. In the event that there is no such basis for comparison, the superintendent shall charge the customer such amount as he deems fair both to the customer and the village.

SECTION 7-406: RESTRICTED USE

The electric system does not guarantee the delivery of electric current over the lines of the distribution system except when it has sufficient power, current, equipment, and machinery to do so. The utility superintendent has the power and authority to disconnect or discontinue such service for any good and sufficient reason without liability. The Village shall use due care and reasonable diligence to provide and supply uninterrupted service to consumers but shall not be liable for damages resulting from interruption of service due to causes over which the Village has no control and the Village expressly reserves the right to discontinue or disconnect any consumer's service without preliminary notice. (Neb. Rev. Stat. §17-902, 19-1404)

SECTION 7-407: POSTING SIGNS

It shall be unlawful for any person to post, tack, or fasten to the poles, structures, fixtures, or equipment of the electric system any sign, poster, advertisement, or banner without written permission from the utility superintendent. (Neb. Rev. Stat. §19-1404)

SECTION 7-408: TRIMMING TREES

Any person desiring to cut or remove trees or branches thereof in close proximity to the lines of the electric system shall, before doing the said work, give reasonable written notice to the utility superintendent and shall follow any and all rules and regulations which he may prescribe for doing such work. It shall be unlawful for any person felling or removing such trees or branches to disrupt or damage the lines without first giving proper notice and receiving permission in writing to do so. Whenever it becomes necessary to protect the lines or property of the electric system, the Village Board shall have the power to order cut and remove any overhanging branches, or limbs of trees so that the lines will be free and safe.

SECTION 7-409: INSPECTIONS

The utility superintendent shall have free access at any reasonable time to each premises and building to or in which electricity is supplied; provided, in the event of an emergency, such inspections may take place at any time. (Neb. Rev. Stat. §17-902)

SECTION 7-410: DESTRUCTION OF PROPERTY

It shall be unlawful for any person to willfully or carelessly break, injure, or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the electric system. (Neb. Rev. Stat. §28-512)

Article 5 – Solid Waste

SECTION 7-501: OWNER'S RESPONSIBILITY

A. It shall be unlawful for any person to keep garbage, trash, or waste of any kind that may be injurious to the public health or offensive to the residents of the Village in, on, or about any dwelling, building, or premises or any other place in the Village unless the same is kept in approved receptacles awaiting collection and disposal.

B. No person may permit yard waste, garbage, trash, or waste to accumulate; and all persons shall properly dispose of the same within 24 hours after notification from the village chairman, who shall represent the Board of Health.

(Neb. Rev. Stat. §19-2106)

SECTION 7-502: MANDATORY COLLECTION

All garbage, trash, and waste generated by the residents of the Village shall be collected for disposal by the contracted company. The said company shall collect all garbage, trash, and waste from the approved receptacles at each collection stop not less frequently than weekly. In case of weather or road conditions making collection impossible or impractical, collection will be made as soon thereafter as possible. Each collection stop shall have approved receptacles approved by the contracted company for the purpose of accumulation of garbage, trash, and waste awaiting collection. All residents of the Village shall make the approved receptacles available to the contracted company on the scheduled collection date.

SECTION 7-503: COLLECTION FEES

A collection fee shall be set by the contract vendor, which shall be billed and collected by the Village along with water and sewer usage in the manner set forth in Chapter 7, Article 1 herein.

Article 6 – Penal Provision

SECTION 7-601: VIOLATION; PENALTY

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

CHAPTER 8 – FIRE REGULATIONS

ARTICLE 1 – FIRE DEPARTMENT AND RESCUE SQUAD

SECTION 8-101: OPERATION AND FUNDING; AGREEMENT WITH RURAL FIRE DISTRICT

SECTION 8-102: DUTIES OF DEPARTMENT

SECTION 8-103: RESCUE SQUAD

SECTION 8-104: FIRE CHIEF

SECTION 8-105: MEMBERSHIP

SECTION 8-106: EQUIPMENT

SECTION 8-107: COMMUNICATIONS EQUIPMENT

ARTICLE 2 – FIRES

SECTION 8-201: PRESERVATION OF PROPERTY

SECTION 8-202: TRAFFIC

SECTION 8-203: PEDESTRIANS

SECTION 8-204: DRIVING OVER HOSE

SECTION 8-205: FALSE ALARM

SECTION 8-206: INTERFERENCE

ARTICLE 3 – FIRE PREVENTION

SECTION 8-301: FIRE CODE; ADOPTED BY REFERENCE

SECTION 8-302: LIFE SAFETY CODE; ADOPTED BY REFERENCE

SECTION 8-303: CODE ENFORCEMENT

SECTION 8-304: FIRES REGULATED

SECTION 8-305: OPEN BURNING BAN; WAIVER; PERMIT

SECTION 8-306: OUTDOOR FIRE PITS AND FIREPLACES

SECTION 8-307: INSPECTIONS; VIOLATION NOTICE

ARTICLE 4 – HAZARDOUS MATERIALS

SECTION 8-401: EXPLOSIVES; STORAGE; REGISTRATION

SECTION 8-402: EXPLOSIVES; BULLETS

SECTION 8-403: EXPLOSIVES; BLASTING PERMITS

SECTION 8-404: POISONOUS OR FLAMMABLE GASES

ARTICLE 5 – FIREWORKS

SECTION 8-501: REGULATION OF USE, SALE, POSSESSION OF FIREWORKS

ARTICLE 6 – PENAL PROVISION

SECTION 8-601: VIOLATION; PENALTY

CHAPTER 8 – FIRE REGULATIONS

Article 1 – Fire Department and Rescue Squad

SECTION 8-101: OPERATION AND FUNDING; AGREEMENT WITH RURAL FIRE DISTRICT

A. The Village operates the Fire Department and Rescue Squad through the fire chief and firefighters. The fire chief shall manage the Fire Department.

B. The Village Board may levy a tax annually as provided in state law upon the taxable value of all the taxable property within the Village for the maintenance and benefit of the volunteer Fire Department. The amount of such tax shall be established at the beginning of the year and shall be included in the adopted budget statement. Upon collection of such tax, the village treasurer shall disburse the same upon the order of the fire chief with the approval of the Village Board.

C. The Fire Department is authorized to enter into an agreement with the appropriate Rural Fire District for the mutual aid and protection of the residents of both the Village and the Rural Fire District. Such an agreement shall provide for mutual aid, protection and a sharing of necessary expenses between the Village and the Rural Fire District. The agreement so entered into shall be on file in the office of the village clerk for public inspection during office hours.
(Neb. Rev. Stat. §§17-718, 35-501, 35-530)

SECTION 8-102: DUTIES OF DEPARTMENT

It shall be the duty of the Fire Department to use all proper means for the extinguishment of fires, to protect property within the Village, and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention.

SECTION 8-103: RESCUE SQUAD

The Fire Department may also operate a rescue unit for the benefit of those within the Fire Protection District. They shall make rules and regulations for the proper and effective use of emergency rescue equipment and for the adequate training of personnel to operate such equipment, subject to the review of the Village Board. It shall be the duty of the official in charge of the Rescue Squad during the time of a rescue call to ensure that every victim of mishap is aided or aided and transported to the emergency room of the nearest hospital. When available, rescue personnel shall respond to all fire calls. (Neb. Rev. Stat. §35-514.02)

SECTION 8-104: FIRE CHIEF

A. The fire chief shall be elected by the members of the Fire Department. He shall manage the Fire Department and it shall be his duty to inform the Village Board when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the board, the fire chief shall cause the repair, improvement, or maintenance of the said equipment and shall personally supervise

and approve of the same. It shall be the duty of the fire chief to come before the Village Board at the regular meeting in January each year to give a report of the general condition and the proposed additions or improvements recommended by him.

B. The fire chief shall, on the first day of April and October each year, file with the village clerk a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the exemptions provided by law.

C. The chief shall enforce all laws and ordinances covering the prevention of fires, the storage and use of explosives and flammable substances, the installation of fire alarm systems, the regulation of fire escapes, and the inspection of all premises requiring adequate fire escapes. The fire chief shall have the right to enter at all reasonable hours into buildings and upon all premises within his jurisdiction for the purpose of examining the same for fire hazards and related dangers. The chief shall investigate the cause, origin, and circumstances of any fire arising within his jurisdiction.

(Neb. Rev. Stat. §§17-505, 35-102, 81-506, 81-512)

SECTION 8-105: MEMBERSHIP

A. The Fire Department shall consist of so many members as may be decided by the Village Board. The members may organize themselves in any way they may decide, subject to the review of the board. Members of the Fire Department may hold meetings and engage in social activities with the approval of the Village Board. The secretary shall, upon request, keep a record of all meetings and shall make a report to the board of all meetings and activities of the Fire Department.

B. The volunteer Fire Department shall not have upon its rolls at one time more than 35 persons for each engine company in the Fire Department. Members in good standing are those who keep their dues promptly paid up and are present and render active service when called out for the legitimate purposes of the Fire Department.

C. Volunteer firefighters of the Fire Department shall be deemed employees of the Village while in the performance of their duties as members of the department. Members of the volunteer Fire Department, before they are entitled to benefits under the Nebraska Workers' Compensation Act, shall be recommended by the fire chief or some person authorized to act for the chief for membership therein to the chairman and Village Board, and upon confirmation shall be deemed employees of the Village. After confirmation to membership, members of the department may be removed by a majority vote of the board and thereafter shall not be considered employees of the Village. Firefighters shall be considered as acting in the performance and within the course and scope of their employment when performing activities outside of the corporate limits of the Village but only if directed to do so by the fire chief or some person authorized to act for the chief.

D. The Village Board shall purchase and maintain in force a policy of group term life insurance to age 65 covering the lives of all of the active volunteer fire and

rescue personnel, except that when any such person serves more than one village or rural fire protection district, the policy shall be purchased only by the first village or district which he or she serves. The policy shall provide a minimum death benefit of \$10,000.00 for death from any cause and shall, at the option of the insured, be convertible to a permanent form of life insurance at age 65. The coverage of such policy shall terminate as to any individual who ceases to be an active volunteer member of the department.

E. The Village Board may compensate or reimburse any member of the Fire Department for expenses incurred in carrying out his or her duties in an amount set by resolution.

F. All members of the Fire Department shall be subject to such rules and regulations and shall perform such duties as may be prescribed or required of them by the fire chief or the Village Board. The members of the department shall, during the time of a fire or great public danger, have and exercise the powers and duties of police officers and shall have full power and authority to arrest all persons guilty of any violation of the village code or the laws of the state.

(Neb. Rev. Stat. §§33-139.01, 35-101 through 35-103, 35-108, 48-115)

SECTION 8-106: EQUIPMENT

A. It shall be unlawful for any person except the fire chief and the members of the Fire Department to molest, destroy, handle, or in any other way to interfere with the use and storage of any of the fire trucks and other apparatus belonging to the village.

B. Fire equipment may not be removed from the Fire Department without prior approval of department personnel. Village employees shall not be involved in the fire or rescue actions other than as firemen or Rescue Squad members. Maintenance of the Fire Department building is the responsibility of the Village Board. The temperature control of the building shall be administered to ensure that oxygen and other equipment of the Rescue Squad and other department companies are maintained at safe operating and administration temperatures.

(Neb. Rev. Stat. §28-519)

SECTION 8-107: COMMUNICATIONS EQUIPMENT

No unauthorized person shall operate any radio or communications equipment of the Fire Department. All persons authorized to operate said equipment shall do so only as authorized by the license granted to that particular piece of equipment and shall strictly comply with all of the rules and regulations established.

Article 2 – Fires

SECTION 8-201: PRESERVATION OF PROPERTY

Any official of the Fire Department shall have the power during the time of a fire to cause the removal of any private or public property whenever it shall become necessary to do so for the preservation of such property from fire, to prevent the spreading of fire, or to protect adjoining property. The said officials may direct the firemen to remove any building, structure, or fence for the purpose of checking the progress of any fire.

SECTION 8-202: TRAFFIC

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where fire apparatus have stopped in answer to a fire alarm. Nothing herein shall be construed to apply to vehicles carrying emergency or medical personnel. (Neb. Rev. Stat. §60-6,183)

SECTION 8-203: PEDESTRIANS

It shall be unlawful for any pedestrian to enter or remain in any street after a fire alarm has sounded until the fire trucks have completely passed. (Neb. Rev. Stat. §28-908)

SECTION 8-204: DRIVING OVER HOSE

It shall be unlawful for any person, without the consent of the fire chief or assistant fire chief, to drive any vehicle over unprotected hose of the Fire Department. (Neb. Rev. Stat. §60-6,184)

SECTION 8-205: FALSE ALARM

It shall be unlawful for any person to raise any false alarm of fire intentionally and without good and reasonable cause. (Neb. Rev. Stat. §§28-907, 35-520)

SECTION 8-206: INTERFERENCE

It shall be unlawful for any person or persons to hinder or obstruct the fire chief or the members of the Fire Department in the performance of their duties. A person commits the offense of interfering with a fireman if at any time and place where any fireman is discharging or attempting to discharge any official duties he or she willfully:

A. Resists or interferes with the lawful efforts of any fireman in the discharge or attempt to discharge an official duty; or

B. Disobeys the lawful orders given by any fireman while performing his duties; or

C. Engages in any disorderly conduct which delays or prevents a fire from being extinguished within a reasonable time; or

D. Forbids or prevents others from assisting or extinguishing a fire or exhorts another person, as to whom he has no legal right or obligation to protect or control, not to assist in extinguishing a fire.
(Neb. Rev. Stat. §28-908)

Article 3 – Fire Prevention

SECTION 8-301: FIRE CODE; ADOPTED BY REFERENCE

The most recent edition of the Fire Code, as published by the National Fire Protection Association and recommended by the American Insurance Association, along with all subsequent amendments, is hereby adopted by reference as part of this chapter. In the event that any of the provisions of said code are in conflict with any of the provisions of the municipal code, the provisions of the municipal code shall prevail. (Neb. Rev. Stat. §§18-132, 19-922, 81-502)

SECTION 8-302: LIFE SAFETY CODE; ADOPTED BY REFERENCE

Incorporated by reference into this municipal code are the standards recommended by the National Fire Protection Association known as the Life Safety Code, most recent edition and all subsequent amendments. This code shall have the same force and effect as if set out verbatim herein. (Neb. Rev. Stat. §§18-132, 81-502)

SECTION 8-303: CODE ENFORCEMENT

It shall be the duty of all village officials to enforce the incorporated fire code provisions as provided in Sections 8-301 and 8-302, and all infractions shall be immediately brought to the attention of the fire chief.

SECTION 8-304: FIRES REGULATED

A. Any person desiring to burn any substance, except as described in subsection (B) herein, shall contain it in a fireproof trash burner or incinerator with a metal fireproof screen of not more than 1 inch mesh, located at least 15 feet from any building. The incinerator shall be built in such a way that it does not permit the escape of burning paper or other substance. The fire chief shall approve any such burner or incinerator before use. If any person shall require a fire in the course of his or her trade as a blacksmith or mechanic, such fire shall be built and maintained in the manner prescribed by the fire chief. All fires shall be built after sunrise and completely extinguished by sunset, except the aforesaid fires used in the course of a trade, which shall be allowed during such hours as the fire chief shall prescribe.

B. It shall be unlawful for any person to set fire to, burn, or cause to be burned any garbage, animal matter, or vegetable matter including straw, hay, leaves and brush.

(Neb. Rev. Stat. §§17-549, 17-556)

SECTION 8-305: OPEN BURNING BAN; WAIVER; PERMIT

A. There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land.

B. The fire chief may waive an open burning ban under subsection (A) of this section for an area under the Fire Department's jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. Said person

shall make application on a form provided by the state fire marshal. The permit shall be signed by the fire chief. He or she may adopt standards listing the conditions acceptable for issuing a permit to conduct open burning under this section.

C. The fire chief may waive an open burning ban under the local Fire Department's jurisdiction when conditions are acceptable to the chief. Anyone intending to burn in such jurisdiction when the open burning ban has been waived shall notify the fire chief beforehand of his or her intention to burn.

D. The Fire Department may set and charge a fee not exceeding \$10.00 for each such permit issued. Such fees shall be remitted to the Village Board for inclusion in the general funds allocated to the Fire Department. Such funds shall not reduce the tax requirements for the Fire Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under subsection (B) of this section in the course of such state's or political subdivision's official duties.

(Neb. Rev. Stat. §81-520.01)

SECTION 8-306: OUTDOOR FIRE PITS AND FIREPLACES

A. The following definitions shall apply in this section:

1. "Outdoor fireplaces" shall include fire pits, portable fire pits, and chimineas. These residential outdoor fireplaces use wood as a fuel and are used for containing recreational fires located at a private residence for the purpose of outdoor cooking and personal enjoyment. Outdoor fireplaces do not include barbeque grills that use propane or charcoal as a fuel and are used primarily for outdoor cooking.
2. "Portable fire pits" are defined as being commercially designed and intended to confine and control outdoor wood fires.
3. "Chimineas" are defined as outdoor patio fireplaces, usually made from clay, intended to confine and control outdoor wood fires.
4. "Fire pits" are usually constructed of steel, concrete and/or stone, constructed above ground with a steel screen cover.

B. All outdoor fireplaces shall meet the following requirements:

1. *Clearances.* A minimum 10-foot clearance shall be maintained between the outdoor fireplace and combustible structure or materials such as walls, roofs, fences, decks, wood piles, and other combustible material.
2. *Construction.* Outdoor fireplaces shall be constructed of concrete or approved non-combustible materials. Not permitted are barrels, half-barrels, drums, or similarly constructed devices.
3. *Size.* The fuel area for a fire pit shall not be larger than 3 feet in diameter and not more than 3 feet in height.

4. *Location.* An outdoor fireplace shall be placed on a stable non-combustible surface such as a concrete pad and only at grade level and shall not be located on a combustible balcony or deck nor under any combustible balcony or any overhanging portion of a structure.
5. *Type of Materials Being Burnt.* Materials allowed by this section shall be limited to untreated wood or approved fireplace starter logs. Petroleum products, rubbish, grass, leaves, cardboard, plastics, rubber, or any material that may flow out of the containment or cause excessive heat, smoke, or offensive smell shall not be permitted.
6. *Amount of Materials Being Burnt.* Users must (a) limit the amount of material being burnt to ensure the flames are confined inside the fuel area of the outdoor fireplace and the flames do not extend above the pit or into the chimney and (b) follow the manufacturer's recommendation on the maximum amount of fuel to be used at one time with the spark guard in place.
7. *Supervision.* Every outdoor fireplace shall be under constant supervision by at least one responsible person age 18 or older from the ignition of the fire until the fire is completely extinguished and embers are cooled so as to prohibit the fire from rekindling.
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. *Weather Conditions.* Outdoor fireplaces shall not be operated when weather conditions are extremely dry.
10. *Hazard.* Outdoor fireplaces shall be completely extinguished and/or not be operated when breezes or winds are blowing which will cause smoke, embers, or other burning materials to be carried toward any building or other combustible materials. The fire chief or an authorized representative shall have the authority to require that use of the outdoor fireplace be immediately discontinued if such use is determined to constitute a hazardous condition to occupants of surrounding property.
11. *Nuisance to Neighbors.* Smoke from any outdoor fireplace shall not create a nuisance for neighboring property owners. The fire shall be extinguished immediately upon the complaint of any neighboring property owner of any smoke nuisance.
12. *Maintenance.* The owner is responsible to ensure proper maintenance and care is accomplished in accordance with manufacturer's instructions. At a minimum, the outdoor fireplace will be checked regularly for the appearance of cracks and other physical deterioration or loose parts.

(Neb. Rev. Stat. §§17-549, 17-556, 81-520.01)

SECTION 8-307: INSPECTIONS; VIOLATION NOTICE

A. The fire chief or his or her agent may, at any reasonable hour, enter into all buildings and upon all premises within his or her jurisdiction for the purposes of examination to ascertain whether any conditions are likely to create a fire hazard. The inspection shall be of the storage, sale, and use of flammable liquids, combustibles, and explosives; electric wiring and heating; and the means and adequacy of exits in case of fire in schools, churches, hotels, halls, theaters, factories, hospitals, and all other buildings in which numbers of persons congregate from time to time for any purpose, whether publicly or privately owned; the design, construction, location, installation, and operation of equipment for storing, handling, and utilizing of liquefied petroleum gases, specifying the odorization of said gases and the degree thereof; and chemicals, prozylin plastics, nitrocellulose films, or any other hazardous material that may now or hereafter exist.

B. It shall be the duty of the owner, lessee, or occupant of any building or structure that was lawfully inspected as herein prescribed and who receives written or verbal notice of a violation of any of the provisions of the village ordinances to correct such condition within five days from the receipt of such notice.

(Neb. Rev. Stat. §§81-503.01, 81-512)

Article 4 – Hazardous Materials

SECTION 8-401: EXPLOSIVES; STORAGE; REGISTRATION

A. Any person, firm, or corporation storing or keeping dynamite, gunpowder, nitroglycerine, or other high explosives within the Village for any period of time shall register such information with the village clerk 24 hours prior to such explosives being brought into the Village. The clerk shall forward such information to the fire chief and to the Village Board. Transfer of explosives to another individual within the Village shall require the recipient to register the transfer and the new location of the explosives with the clerk. Also, moving explosives to a new location by the owner shall require registration of that fact to the clerk.

B. Any high explosives including dynamite, gunpowder, and nitroglycerine shall be stored in a proper receptacle which shall be closed at all times except when actually in use. Such concrete, metal, or stone receptacle shall not be located in any room where there is a flame or flammable materials. The area surrounding the storage facility shall be kept clear of rubbish, brush, dry grass, or trees for not less than 25 feet in all directions. Any other combustible materials shall be kept a distance of not less than 50 feet from outdoor storage facilities.

(Neb. Rev. Stat. §§-17-549, 17-556, 28-1213, 28-1229, 28-1233)

SECTION 8-402: EXPLOSIVES; BULLETS

Cartridges, shells, and percussion caps shall be kept in their original containers away from flame, flammable materials, and high explosives.

SECTION 8-403: EXPLOSIVES; BLASTING PERMITS

Any person wishing to discharge high explosives within the Village must secure a permit from the Village Board and shall discharge such explosives in conformance with its direction and under its supervision. In no case shall any person perform blasting operations unless operating under the direct supervision of a person in possession of a valid user's permit issued by the Nebraska State Patrol. (Neb. Rev. Stat. §§17-556, 28-1229)

SECTION 8-404: POISONOUS OR FLAMMABLE GASES

Any person, firm, or corporation desiring to store or keep in the Village any form of poisonous or flammable gas or liquefied petroleum gas in excess of 100 gallons or to add to, enlarge, or replace any facility used for the storage of such gases must first get a permit from the Village Board, which shall require the name of the gas, the place of storage, and the amount of gas stored. If permission is granted, the board shall prescribe such rules, regulations, and precautionary actions as it may deem necessary. (Neb. Rev. Stat. §17-549)

Article 5 – Fireworks

SECTION 8-501: REGULATION OF USE, SALE, POSSESSION OF FIREWORKS

The use, sale, offer for sale, and possession of permissible fireworks in the Village as defined by Neb. Rev. Stat. §28-1241 shall be governed and regulated by Neb. Rev. Stat. §§28-1241 to 28-1252, including any and all amendments thereto, together with any rules and regulations adopted by the state fire marshal for the enforcement of said sections.

Article 6 – Penal Provision

SECTION 8-601: VIOLATION; PENALTY

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

CHAPTER 9 – BUILDING REGULATIONS

ARTICLE 1 – BUILDING INSPECTOR

SECTION 9-101: POWERS AND AUTHORITY

SECTION 9-102: RIGHT OF ENTRY

SECTION 9-103: TIME OF INSPECTION

SECTION 9-104: APPEAL FROM DECISION

SECTION 9-105: BARRICADES AND LIGHTS

ARTICLE 2 – BUILDING PERMITS

SECTION 9-201: APPLICATION

SECTION 9-202: LIMITATION

SECTION 9-203: DUPLICATE TO COUNTY ASSESSOR

ARTICLE 3 – BUILDING MOVING

SECTION 9-301: REGULATIONS

SECTION 9-302: UTILITIES

SECTION 9-303: COMPLETION OF MOVE

ARTICLE 4 – CONSTRUCTION CODES

SECTION 9-401: BUILDING CODE; ADOPTED BY REFERENCE

SECTION 9-402: PLUMBING CODE; ADOPTED BY REFERENCE

SECTION 9-403: ELECTRICAL CODE; ADOPTED BY REFERENCE

ARTICLE 5 – PENAL PROVISION

SECTION 9-501: VIOLATION: PENALTY

CHAPTER 9 – BUILDING REGULATIONS

Article 1 – Building Inspector

SECTION 9-101: POWERS AND AUTHORITY

When necessary, the Village Board may appoint a building inspector, who shall be the village official having the duty of enforcing all building and housing regulations as herein prescribed. The designated code enforcement authority in Section 1-413 or another person experienced in building construction practices may be appointed as building inspector. He or she shall have the authority to carry out the duties as stated in the Dangerous Buildings Regulations in Chapter 3, Article 5 of this code. The other duties of the building inspector shall be as follows:

A. He or she shall inspect all buildings repaired, altered, built, or moved in the Village as often as necessary to ensure compliance with all village ordinances and is authorized, upon properly identifying himself, to enter, inspect, survey, and investigate between the hours of 8:00 a.m. and 5:00 p.m. or at any time if an emergency exists or if requested by the owner or occupant thereof. He or she shall also investigate all complaints, whether verbal, written, or in the form of a petition, alleging and charging that a violation of the municipal ordinances exists and that a building or structure is unfit or unsafe for human habitation.

B. He or she shall have the power and authority to order all work stopped on any construction, alteration, or relocation which violates any provisions prescribed herein. He or she shall, at the direction of the Village Board, issue permission to continue any construction, alteration, or relocation when the board is satisfied that no provision will be violated. If the stop order is an oral one, it shall be followed by a written stop order within one hour. Such written order may be served by the chairman or designated agent.

C. He or she shall have no financial interest in the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of a building, except where he or she is the owner; and the inspector shall not act as an agent for any said dealer or as an agent for the sale, lease, or rental of any real estate.

D. He or she shall report to the Village Board as often as may be deemed necessary and shall have such other duties and issue such permits as the board may direct.

SECTION 9-102: RIGHT OF ENTRY

It shall be unlawful for any person to refuse to allow the building inspector entry into any building or structure where the work of construction, alteration, repair, or relocation is taking place, for the purpose of making official inspections, at any reasonable hour.

SECTION 9-103: TIME OF INSPECTION

A. The building inspector, upon notification from the permit holder or his agent, shall make the following inspections of the building or structure and shall either approve that portion of the construction as completed or shall notify the permit holder or his agent that the work fails to comply with the requirements of the municipal code:

1. Foundation inspection shall be made after trenches are excavated and the necessary forms erected;
2. Frame inspection shall be made after the roof, framing, fire-blocking, and backing are in place and all pipes, chimneys, and vents are complete; and
3. Final inspection shall be made after the building is completed and ready for occupancy.

B. It shall be unlawful for any person to do work or cause work to be done beyond the point indicated in each successive inspection without the written approval of the building inspector.

SECTION 9-104: APPEAL FROM DECISION

In the event it is claimed that the true intent and meaning of this chapter has been wrongly interpreted by the building inspector, that the time allowed for compliance with any order of the building inspector is too short, or that conditions peculiar to a particular building make it unreasonably difficult to meet the literal requirements prescribed by this chapter and by the building inspector, the owner, his agent, or the occupant may file a notice of appeal within ten days after the decision or order of the building inspector has been made. The Village Board shall hear all appeals and shall have the power and authority, when appealed to, to modify the decision or order of the building inspector. Such a decision shall be final, subject only to any remedy which the aggrieved person may have at law or equity. Applications for review shall be in writing and shall state the reasons why the variance should be made. A variance shall be granted only where it is evident that reasonable safety and sanitation are assured and may include conditions not generally specified by this code to achieve that end. A copy of any variance so granted shall be sent to both the building inspector and the applicant.

SECTION 9-105: BARRICADES AND LIGHTS

It shall be the duty of the owner, tenant, or lessee causing the construction, demolition, or moving of any building or improvement within the Village to have all excavations, open basements, building materials, and debris protected by suitable guards or barricades by day and by warning lights at night during the time that such work is in progress. The failure, neglect, or refusal of said persons to erect such guards shall constitute a violation of this section and the building inspector shall stop all work until guards are erected and maintained as required.

Article 2 – Building Permits

SECTION 9-201: APPLICATION

A. 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 clerk. Every such application shall set forth the legal description of the land upon which the construction or relocation is to take place, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, architect, and contractor, and such other information as may be requested thereon. Each application shall include a scale drawing of the proposed improvement, which shall indicate the distance from all lot lines.

B. The application, plans, and specifications filed with the village clerk shall be checked and examined by the building inspector and if they are found to be in conformity with the requirements of this chapter and all other ordinances applicable thereto, he or she shall authorize the village clerk to issue the said applicant a permit upon payment of the permit fee set by resolution of the Village Board. Standard permit fees shall, however, apply only in the case of on-time (before construction) filings. Any application filed after construction has commenced shall pay a fee that is four times the standard fee.

C. Whenever there is a discrepancy between permit application procedures contained herein and those contained in any building code adopted by reference, the provisions contained herein shall govern.

(Neb. Rev. Stat. §§17-130 through 17-132, 17-550, 17-1001)

SECTION 9-202: LIMITATION

If the work for which a permit has been issued shall not have begun within six months of the date thereof or if the construction is discontinued for a period of six months, the permit shall be void. Before work can be started or resumed, a new permit shall be obtained in the same manner and form as an original permit.

SECTION 9-203: DUPLICATE TO COUNTY ASSESSOR

Whenever a building permit is issued for the erection, alteration, or repair of any building within the Village's jurisdiction and the improvement is \$2,500.00 or more, a duplicate of such permit shall be filed with the county assessor by the village clerk.

(Neb. Rev. Stat. §18-1743)

Article 3 – Building Moving

SECTION 9-301: REGULATIONS

A. It shall be unlawful for any person, firm, or corporation to move any building or structure within the Village without a written permit to do so. Application may be made to the village clerk and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used, and such other information as the Village Board may require. The application shall be accompanied by a certificate issued by the county treasurer to the effect that all provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the said building is presently located. The village clerk shall refer the said application to the Village Board for approval of the proposed route over which the said building is to be moved. Upon said approval, the clerk shall then issue the said permit; provided, a good and sufficient corporate surety bond, check, or cash in an amount set by resolution of the board and conditioned upon moving said building without doing damage to any private or village property is filed with the clerk prior to the granting of any permit.

B. No moving permit shall be required to move a building that is 10 feet wide or less, 20 feet long or less and, when in a position to move, 15 feet high or less.

(Neb. Rev. Stat. §§60-6,288 through 60-6,291, 60-6,294,60-6,298 through 60-6,301)

SECTION 9-302: UTILITIES

A. In the event it will be necessary for any licensed building mover to interfere with poles, wires, gas mains, pipelines, and other appurtenances, the company or companies owning, using, or operating the said appurtenances shall, upon proper notice of at least 24 hours, be present and assist by disconnecting the said poles, wires, gas mains, pipelines, and other appurtenances 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.

B. Whenever the moving of any building necessitates interference with a water main, sewer main, pipes, or electric wire belonging to the Village, notice in writing of the time and route of the said building moving operation shall be given to the utilities superintendent, who shall proceed on behalf of the Village and at the expense of the mover to make such disconnections and do such work as is necessary.

Should any house or building moving occur or be necessary and it becomes necessary in said work to remove or disturb any of the property or wires of the electric system, the same should not be done except upon written permission received from the utility superintendent, who shall then order paid in advance the actual cost of moving the said wires and such cost shall be paid by the applicant prior to the moving of the building or house. All expense of removing, changing, and replacing the said wires or

apparatus of the electric system shall be paid out of the deposit made prior to moving and any surplus remaining after all expenses are paid shall be returned to the applicant; provided, if in the course of moving the said building or house it becomes apparent that additional expense will be incurred, such additional deposit as deemed necessary may be demanded. (Neb. Rev. Stat. §19-1404)

SECTION 9-303: COMPLETION OF MOVE

At such time as the building moving has been completed, the building inspector shall inspect the premises and report to the village clerk as to the extent of damages, if any, resulting from the said relocation and whether any village laws have been violated during the said operation. Upon a satisfactory report from the building inspector, the clerk shall return the corporate surety bond, cash, or check deposited by the applicant. In the event the basement, foundation, or portion thereof is not properly filled, covered or in a clean and sanitary condition, the Village Board may apply the money deposited for the purpose of defraying the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit, the board may recover such excess expense by civil suit or otherwise as prescribed by law.

Article 4 – Construction Codes

SECTION 9-401: BUILDING CODE; ADOPTED BY REFERENCE

The International Building Code (IBC), most recent edition, published by the International Code Council, is hereby incorporated by reference, in addition to all amendments, as though printed in full herein insofar as said code does not conflict with state statutes. The provisions of the International Building Code shall be controlling throughout the Village and throughout its zoning jurisdiction. One copy of the IBC shall be kept on file at the office of the village clerk, available for public inspection. (Neb. Rev. Stat. §§17-1001, 18-132, 19-922)

SECTION 9-402: PLUMBING CODE; ADOPTED BY REFERENCE

The Uniform Plumbing Code, most recent edition, published by the International Association of Plumbing and Mechanical Officials, is hereby incorporated by reference, in addition to all amendments, as though printed in full herein insofar as said code does not conflict with state statutes. The provisions of the Plumbing Code shall be controlling throughout the Village and throughout its zoning jurisdiction. One copy of the Plumbing Code shall be kept on file at the office of the village clerk, available for public inspection. (Neb. Rev. Stat. §§17-1001, 18-132, 19-922)

SECTION 9-403: ELECTRICAL CODE; ADOPTED BY REFERENCE

The National Electrical Code, most recent edition, as recommended by the National Fire Protection Association, is hereby adopted and incorporated by reference, in addition to all amendments, as though printed in full herein insofar as said code does not conflict with state statutes. The provisions of the electrical code shall be controlling throughout the Village and throughout its zoning jurisdiction. One copy of the Electrical Code shall be kept on file at the office of the village clerk, available for public inspection. (Neb. Rev. Stat. §§17-1001, 18-132, 19-922)

Article 5 – Penal Provision

SECTION 9-501: VIOLATION: PENALTY

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