

CHAPTER 5 – PUBLIC WAYS AND PROPERTY

ARTICLE 1 – PUBLIC PROPERTY REGULATIONS

SECTION 5-101: MAINTENANCE AND CONTROL

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 good repair and free from nuisances. ▫

Source: Neb. Rev. Stat. §17-567

SECTION 5-102: OBSTRUCTIONS

Trees and shrubs growing upon or near lot lines or upon public ground and interfering with the use or construction of any public improvements shall be deemed obstructions under this article. The roots of said trees and shrubs may be removed by the street commissioner at the expense of the owner of the property upon which the trees and shrubs are located, should the owner fail or neglect to do so after notice. It shall be unlawful for any person, persons, firm or corporation to obstruct or encumber any of the streets, alleys or sidewalks by fences, gates, buildings, structures or otherwise. ▫

SECTION 5-103: PERMITTED OBSTRUCTIONS

Persons engaged in the erection, construction, reconstruction, wrecking or repairing of any building or the construction or repair of a sidewalk along any street may occupy the public street space with such building material and equipment as long as is necessary if such person shall make written application to do so; provided, no permit shall be granted for the occupancy of the sidewalk space or more than one-third of the roadway of the public space adjacent to the real estate on which said work is being done. A suitable passageway for pedestrians, protected and lighted in the manner required by the Village Board, shall be maintained within the public space included in the permit. ▫

SECTION 5-104: SALE AND CONVEYANCE

1. Except as provided in this section, the power of the Village to convey any real and personal property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution, directing the sale at public auction or by sealed bid of such real and personal property and the manner and terms thereof, except that such real and personal property shall not be sold at public auction or by sealed bid when: ▫

- A. Such property is being sold in compliance with the requirements of federal or state grants or programs; ▫
- B. Such property is being conveyed to another public agency; or ▫

C. Such property consists of streets and alleys. ▫

2. The Village Board may establish a minimum price for such real and personal property at which bidding shall begin or shall serve as a minimum for a sealed bid. ▫

3. After the passage of the resolution directing the sale, notice of all proposed sales of real and personal property described above and the terms thereof shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in the Village. However, if a remonstrance against such sale, signed by legal electors thereof equal in number to 30% of the electors of the Village voting at the last regular municipal election held therein be filed with the Village Board within 30 days after the third publication of the notice, such property shall not then nor within one year thereafter be sold; and real estate now owned or hereafter owned by the Village may be conveyed without consideration to the State of Nebraska or to the Nebraska Armory Board for state armory sites or, if acquired for state armory sites, such property shall be conveyed strictly in accordance with the conditions of Neb. Rev. Stat. §18-1001 to 18-1006. ▫

4. Following passage of the resolution directing a sale, publication of the notice of the proposed sale and passage of the 30-day right of remonstrance period, the property shall then be sold. Such sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale. The village clerk shall, upon passage of such ordinance, certify the name of the purchaser to the register of deeds of the county in which the property is located. ▫

5. This section shall not apply to the sale of personal property if the authorizing resolution directs the sale of an item of personal property whose total fair market value is less than \$5,000.00. Following the passage of the resolution directing the sale of such property, notice of such sale shall be posted in a prominent place within the Village for a period of not less than seven days prior to the sale of such property. Such notice shall give a general description of the property offered for sale and state the terms and conditions of such sale. Confirmation of the sale by passage of an ordinance may be required. ▫

Source: Neb. Rev. Stat. §17-503, 17-503.01

SECTION 5-105: ACQUISITION OF PROPERTY; CONSTRUCTION; ELECTIONS, WHEN REQUIRED

1. The Village is authorized and empowered to (A) purchase, (B) accept by gift or devise, (C) purchase real estate upon which to erect and (D) erect a building or buildings for an auditorium, fire station, village building or community house and maintain, manage and operate the same for the benefit of the inhabitants of the Village. ▫

2. Except as provided below, before any such purchase can be made or any building erected, the question shall be submitted to the electors of the Village at a

general municipal 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. ▫

3. 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: ▫

- A. 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 registered voters of the Village equal in number to 15% of the registered voters of the Village voting at the last regular municipal 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 municipal 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 ▫
- B. The Village Board may proceed without providing the notice and right of remonstrance required in subdivision (A) 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 Village Board after notice and public hearing as provided in Neb. Rev. Stat. §18-1755. ▫

Source: Neb. Rev. Stat. §17-953, 17-953.01

SECTION 5-106: ACQUISITION OF REAL PROPERTY

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. ▫

Source: Neb. Rev. Stat. §18-1755

SECTION 5-107: ACQUISITION OF PROPERTY; 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. ▫

Source: Neb. Rev. Stat. §13-403

ARTICLE 2 – STREETS

SECTION 5-201: NAMES AND NUMBERS

The Village Board may at any time, by ordinance, rename any street or provide a name for a new street. Buildings used for residence or business purposes located along such a street shall retain their previously assigned numbers and the street commissioner shall give notice to the owners or occupants of any buildings located along such named or renamed streets. It shall be the duty of the street commissioner, upon the erection of any new building, to assign the proper number to said building and to give notice to the owner or occupant that such new building has had a number assigned to it. ▫

SECTION 5-202: 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 Village 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/she shall refer such application to the street commissioner, who shall investigate and recommend to the Village Board allowance or rejection as final action by the Village Board on such application. ▫

SECTION 5-203: WIDENING OR OPENING

The Village Board shall have the power to open, widen or vacate any street, alley or lane within the limits of the Village and to create, open and improve any new street, alley or lane. In the event of such action, the damages sustained by the affected property owner shall be determined in such manner as provided by ordinance. ▫

Source: Neb. Rev. Stat. §17-558, 17-559, 76-704 through 76-724

SECTION 5-204: EXCAVATION

It shall be unlawful for any person to make an excavation in any street for any purpose without authorization from the street commissioner. ▫

SECTION 5-205: CUTTING CURB; APPLICATION, PERMIT

1. It is hereby determined to be unlawful for any person to cut into any paving, curb or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained a written permit from the Village Board. Before any person shall obtain a permit, he/she shall inform the village clerk of the place where such cutting is to be done. Before any permit is issued by the village clerk, the applicant for such permit shall deposit with the village treasurer a sum set by resolution of the Village Board for all paving, curbs or sidewalks to be cut. Such sum shall be set on a per-square-foot cost of construction basis. The deposit shall be retained by the Village for the purpose of replacing the paving,

curbs or sidewalks in the event the work is done by the Village. In the event the Village elects to require the applicant to replace the paving, curbs or sidewalks, the deposit shall be retained by the Village until the work is completed to the satisfaction of the street commissioner or of the committee of the Village Board on streets and alleys. ▫

2. Before any permit is issued, in addition to making the deposit set forth above the applicant shall execute a bond to the Village with a good and sufficient surety or sureties to be approved by the Village Board in a sum set by resolution to guarantee faithful performance of the work. ▫

3. It shall be the street commissioner's duty to inspect the place of entry into the paving, sidewalk or curb before the same is cut. When cutting into any paving, it shall be the duty of the applicant to do so under such rules and regulations as may be prescribed by the Village Board or the village engineer. When the applicant is ready to close the opening made, he/she shall inform the street commissioner, who shall supervise and inspect the materials used and the work done in closing the opening. It shall be discretionary with the Village Board to order the street commissioner, under the supervision and inspection of the village engineer or the committee of the Village Board on streets and alleys, to do the work of cutting and closing the paving and charge the costs thereof to the applicant. The Village Board may consent to the work of cutting and closing the paving to be done by the party holding the permit. ▫

SECTION 5-206: FIRE ON SIDEWALK OR PAVEMENT; SCATTERING COMBUSTIBLE MATERIAL THEREON; PROHIBITED

It shall be unlawful for any person to burn any material on any concrete or asphalt pavement or to scatter any combustible material of any kind on the streets, alleys or public ground in this village. ▫

SECTION 5-207: DRIVING STAKES

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without authorization from the street commissioner. ▫

SECTION 5-208: 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 and to use said pavement as a mixing surface for said material. ▫

SECTION 5-209: HARMFUL LIQUIDS

It shall be unlawful for any person to place or permit to leak waste gasoline, kerosene or high lubricating oils onto any street or in any gutter, since such substances

damage or act as a solvent upon said streets. ▫

SECTION 5-210: 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 waste waters that collect on the said sidewalk or street. Any eave spout erected on any dwelling or business building shall be constructed to drain into the alley or, where it is found to be impossible to drain into an alley, shall be buried beneath the sidewalk and drain into the street. ▫

SECTION 5-211: CULVERTS

1. No person, firm or entity shall install or replace any culvert in any drainage ditch within the Village without obtaining prior permission of the Village Board. All culverts installed after permission is received shall be located in line with the location of the driveway. The length of each such culvert is limited to the width of the driveway, plus a maximum of up to five additional feet extended on either or both sides of the driveway, but in any event not to exceed 32 feet in length. Each such culvert shall be no less than 18 inches in diameter unless a small diameter is specifically permitted by the Village Board. ▫

2. All owners of any property within the Village adjacent to a drainage ditch shall maintain and keep clean all culverts and keep the ditches clean and free of debris, specifically all such culverts and ditches located on or adjacent to such property or between the property line and the street abutting said property. If any property owner does not do so, the Village shall hire a contractor or contractors to maintain and keep clean any culverts and ditches not maintained and kept clean by the owner, and the Village shall assess to the violating property owner the costs for having such work done. ▫

(Ord. 282)

SECTION 5-212: HEAVY EQUIPMENT

1. It shall hereafter be unlawful for any person or persons to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk or crossing on any unpaved street without first having protected such structure with heavy plank sufficient in strength to warrant against the breakage or damage of the same. Hereafter, it shall be unlawful to drive, move, operate or convey over or across any paved street a vehicle, machine or implement with sharp discs or sharp wheels that bear upon said pavement; with wheels having cutting edges; 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. ▫

2. 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 the moving of such vehicles, structures or machines will be permitted and allowed. ▫

3. It shall be permissible (A) for school buses and emergency vehicles to use metal or metal-type studs any time of the year; (B) to use farm machinery with tires having protuberances which will not damage the streets; and (C) 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. ▫

Source: Neb. Rev. Stat. §60-6,250

SECTION 5-213: UTILITY LINES, WIRES, ETC.

1. Poles, wires, gas mains, pipe lines and other appurtenances of public service companies shall be located or erected over, upon or under the streets, alleys and common grounds after a proper written application shall have been made to the village clerk and permission in writing shall have been given by the Village Board. When requested by the Village Board, public service companies heretofore or hereafter granted right of way for the erection and maintenance of poles, conduits, gas mains, pipe lines and wires 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 poles, wires, gas mains, pipe lines and other appurtenances to such places and in such manner as shall be designated by said Board. ▫

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

SECTION 5-214: VACATION OF STREETS; RESERVATION OF TITLE

1. Upon the vacation of any street or alley or any part thereof by the Village, the title of such property shall vest in the owner of the abutting property and become part of such property, one-half on each side thereof, except that the Village may reserve title to such property in the ordinance vacating such street or alley. If title is retained by the Village, such property may be sold, conveyed, exchanged or leased

upon such terms and conditions as shall be deemed in the best interest of the Village. ▫

2. In the event the Village does not elect to reserve title in the vacated portion of such street or alley, the title to said property nonetheless shall be subject to the following: ▫

- A. There is reserved to the Village the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated there; and ▫
- B. There is reserved to the Village, any public utilities, and any cable television systems the right to maintain, repair, renew, and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines and other similar services and equipment and appurtenances, including lateral connections or branch lines above, on, or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the abutting properties, and to enter upon the premises to accomplish such purposes at any and all reasonable times. ▫

ARTICLE 3 – SIDEWALKS

SECTION 5-301: DUTY TO REPAIR; LIABILITY

Every owner of any lot or piece of land within the limits of this village shall at all times keep and maintain the sidewalks along and contiguous to said lots or pieces of land in good and proper repair and in a condition reasonably safe for all travelers thereon. In case the owner or owners of any lot or land abutting on any street or avenue or part thereof shall fail to repair any sidewalk in front of his/her/their lots or land within the time and in the manner as directed and required by this article after having received due notice to do so, they shall be liable for all damages and injury occasioned by reason of the defective or dangerous condition of any sidewalk. The chairman and Board of Trustees shall have power to cause such sidewalks to be repaired and assess the costs thereof against such property. ▫

Source: Neb. Rev. Stat. §17-557, 17-557.01

SECTION 5-302: NEW SIDEWALK; NOTICE

Whenever the Village Board shall deem it necessary that a new sidewalk should be constructed in front of any lot or piece of ground in the Village in a place where there is no sidewalk, it shall so order. The street commissioner shall thereupon notify the owner of such lot or piece of ground or his/her agent of the work or improvement to be done, and such owner or person so notified shall be allowed 30 days from the date of said notice in which to construct the same. ▫

SECTION 5-303: REPAIRING SIDEWALK; NOTICE

Whenever the Village Board, committee on streets and walks or the street commissioner shall deem it necessary that a sidewalk is in need of repair, the owner of the lot or piece of land along and contiguous to which such sidewalk is situated shall be notified to make arrangements within 48 hours to repair the same. Said repairs shall be completed within 21 days after issuance of said notice. Oral notice to the owner shall be deemed sufficient. If the owner is not found by the street commissioner, then a written notice left in the house situated on such lot or piece of ground or posted upon said premises shall be sufficient, and the 48 hours shall begin to run from the leaving or posting of such notice, as the case may be. ▫

SECTION 5-304: RECONSTRUCTING SIDEWALK; NOTICE

Whenever the Board shall deem it necessary that an old sidewalk be replaced or reconstructed, it shall order the same to be done and the street commissioner shall give notice, in the manner and form provided in Section 5-303 of this article, to replace or reconstruct the same within 21 days from and after such notice. ▫

SECTION 5-305: FAILURE TO CONSTRUCT, RECONSTRUCT OR REPAIR

If any such owner, after notice has been given as provided in this article, shall ne-

glect or refuse or shall have failed to construct, repair, replace or reconstruct any sidewalk within the time limit in the notice given in such case, and whose duty it is made by this article to construct, repair or rebuild such sidewalk, the street commissioner or other officer empowered herein to act shall proceed at once without further notice to such owner or person to have such sidewalk constructed, repaired, rebuilt or reconstructed, as the case may be, and the expense of such work shall be assessed to such lot or piece of land and collected as provided by law. ▫

SECTION 5-306: MANNER OF CONSTRUCTION

All sidewalk construction shall be done strictly in accordance with and pursuant to the instruction and direction of the street superintendent for the Village. ▫

SECTION 5-307: FAILURE TO REBUILD; ASSESSMENT OF COSTS

In case the owner of property in front of which any unlawful sidewalk is constructed refuses or neglects to rebuild or relocate the same within five days after notice to do so, then the Board may order the same to be rebuilt or relocated and assess the costs upon the abutting property upon the same notice and in the same manner provided by law for the construction of and assessment for new sidewalks. ▫

SECTION 5-308: DUTY TO REMOVE SNOW, SLEET AND ICE; PENALTY

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud or other substance to remain upon said sidewalk. All sidewalks within the business district shall be cleaned within five hours after the cessation of a storm unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 9:00 A.M. the following day. Sidewalks within the residential areas of the Village shall be cleaned within 24 hours after the cessation of any storm. ▫

Source: Neb. Rev. Stat. §17-557

SECTION 5-309: DUTY TO REMOVE BRANCHES AND SHRUBBERY; PENALTY

It shall be the duty of the occupant of each lot or parcel of ground in said village to keep the sidewalks adjacent thereto free from overhanging branches and limbs to a height of seven and one-half feet and to keep such sidewalks free from encroaching hedges or shrubbery. No tree, shrubbery or hedge shall be permitted closer than 18 inches to the sidewalk. It shall be the duty of the occupant of each lot or parcel of ground abutting on any intersection to trim and or remove any shrubbery or other obstacle which obstructs the view for a distance of 25 feet from such intersection. Any such occupant or owner who fails to remove the overhanging branches and limbs or other encroachments within five days after receiving written notice to do so, upon conviction shall be fined not more than \$10.00 and shall pay the costs of prosecution and the costs of the removal of such encroachments. ▫ (Ref. next page)

Source: Neb. Rev. Stat. §17-557.01

SECTION 5-310: CONSTRUCTION BY PETITION OR AGREEMENT

1. If 60% of the record resident front footage owners of property subject to assessment for sidewalk improvements petition the Board of Trustees to construct the same, the Board of Trustees shall proceed in all things as though such construction had been ordered by it. ▫
2. Upon the petition of an abutting owner in fee simple of property subject to assessment for sidewalk improvements, the Board of Trustees may order permanent sidewalks built in accordance with this article upon the making, executing and delivering to the Village an agreement by the owner that he/she (A) will pay the engineering service fees and the cost of the construction of the sidewalk; (B) grants the Village the right to assess and levy the costs of such construction against his/her real estate abutting the sidewalk improvement; and (C) promises to pay such costs with interest; and (D) agrees that such costs of construction, until paid, shall be a perpetual lien upon the real estate abutting the sidewalk to be constructed. The total cost of such improvement shall be levied, allocated, financed and specially assessed as provided by law. ▫

Source: Neb. Rev. Stat. §17-510

ARTICLE 4 – CONSTRUCTION OF PRIVATE DRIVES

SECTION 5-401: APPLICATION; PERMIT

Before any person, firm or corporation constructs a private drive onto any public street or alley, an application shall first be made to the Village Board for a permit for such construction. Such application shall be acted upon by the Board at a special or regular meeting. ▫

SECTION 5-402: PRIVATE DRIVE SPECIFICATIONS

Private drives shall not exceed 24 feet in width and shall not be constructed within ten feet of adjacent lot lines unless such adjacent lots are owned by the applicant. ▫

SECTION 5-403: APPLICATION REQUIREMENTS

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. ▫

SECTION 5-404: APPROVAL OF BOARD

In the event that the Village Board determines that such application is in due and proper form and that the same complies with this article, it shall approve construction of such requested driveway and note such approval in its official minutes. ▫

ARTICLE 5 – PENAL PROVISION

SECTION 5-501: VIOLATION; PENALTY

Any and all persons violating any of the provisions of the several articles of this chapter for which no other penalty is imposed shall, upon conviction, be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in an amount not more than \$500.00. Each day that maintenance of the same continues shall constitute a separate offense. ▫

