

VILLAGE OF
BENNET, NEBRASKA
CODE OF ORDINANCES

February 12, 2014

CODE OF BENNET

This codification, as revised as of February 12, 2014, containing all ordinances of a general nature passed and in effect as of that date, is published under authority of the Board of Trustees of the Village of Bennet, Nebraska.

I, duly appointed and acting Village Clerk/Treasurer of the Village of Bennet, Nebraska, do certify that the attached is a true and correct compilation of ordinances of a general nature of the Village of Bennet, Nebraska, in effect on February 12, 2014.

Date: May 20, 2014

Patricia Rule
Patricia Rule, Village Clerk/Treasurer



BENNET, NEBRASKA

TABLE OF CONTENTS

Chapters:

TITLE I: GENERAL PROVISIONS

- 10. General Provisions
- 11. Village Standards

TITLE III: ADMINISTRATION

- 30. Elected Officials; Ordinances
- 31. Appointed Village Officials
- 32. Departments, Boards, and Commissions
- 33. General Provisions
- 34. Finance and Revenue
- 35. Sales and Use Tax

TITLE V: PUBLIC WORKS

- 50. General Provisions
- 51. Garbage and Refuse
- 52. Water
- 53. Sewers

TITLE VII: TRAFFIC CODE

- 70. General Provisions
- 71. Traffic Regulations
- 72. Parking Regulations
- 73. Traffic Schedules
- 74. All-Terrain and Utility-Type Vehicles

TITLE IX: GENERAL REGULATIONS

- 90. Fire Regulations
- 91. Health and Safety
- 92. Public Ways and Property
- 93. Animals
- 94. Leisure and Recreation

TITLE XI: BUSINESS REGULATIONS

- 110. Occupation Taxes
- 111. Peddlers and Hawkers
- 112. Alcoholic Beverages

TITLE XIII: GENERAL OFFENSES

- 130. Offenses Generally

TITLE XIV: STRUCTURAL SAFETY

- 140. Bennet Building Code
- 141. Bennet Residential Code
- 142. Bennet Mechanical Code
- 143. Bennet Fuel Gas Code
- 144. Bennet Plumbing Code
- 145. General Provisions Relating to Administration of Building Codes
- 146. Moving of Buildings
- 147. Unsafe Buildings
- 148. Minimum Housing Code

TITLE XV: LAND USAGE

- 151. Subdivision Regulations
- 152. Zoning Code
- 153. Comprehensive Plan

PARALLEL REFERENCES

References to Nebraska Code

References to 1994 Code

References to 2006 Code

References to Ordinances

INDEX

TITLE I: GENERAL PROVISIONS

Chapters:

- 10. GENERAL PROVISIONS**
- 11. VILLAGE STANDARDS**

Bennet – General Provisions

CHAPTER 10: GENERAL PROVISIONS

Sections:

10.01	Title of Code
10.02	Interpretation
10.03	Application to Future Ordinances
10.04	Captions
10.05	Definitions
10.06	Rules of Interpretation
10.07	Severability
10.08	Reference to other Sections
10.09	Reference to Offices
10.99	General Penalty

§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the Village of Bennet, Nebraska, shall be designated as the Code of Bennet and may be so cited.

§ 10.02 INTERPRETATION.

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

§ 10.04 CAPTIONS.

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

Bennet – General Provisions

§ 10.05 DEFINITIONS.

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

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

BOARD OF TRUSTEES, VILLAGE BOARD, or GOVERNING BODY. The legislative body of the Village of Bennet.

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

COUNTY. Lancaster County, Nebraska.

MAY. The act referred to is permissive.

MONTH. A calendar month.

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

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

PERSON. Includes bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, and associations. (Neb. RS 49-801(16))

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

SHALL. The act referred to is mandatory.

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

STATE. The State of Nebraska.

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

VILLAGE, MUNICIPAL CORPORATION, or MUNICIPALITY. The Village of Bennet, Nebraska.

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

YEAR. A calendar year, unless otherwise expressed.

General Provisions

§ 10.06 RULES OF INTERPRETATION.

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

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

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

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

§ 10.07 SEVERABILITY.

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

§ 10.08 REFERENCE TO OTHER SECTIONS.

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

§ 10.09 REFERENCE TO OFFICES.

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

§ 10.99 GENERAL PENALTY.

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

(B) (1) Whenever a nuisance exists as defined in § 91.20, the municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

Bennet – General Provisions

(2) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(Ord. 2000-7.10, passed 7-10-2000)

Statutory reference:

Authority to Abate Nuisances, See Neb. RS 18-1720 and 18-1722

Ordinance Enforcement Powers, See Neb. RS § 17-505

CHAPTER 11: VILLAGE STANDARDS

Sections:

- 11.01 Official Corporate Seal
- 11.02 Village Limits

§ 11.01 OFFICIAL CORPORATE SEAL.

(A) There shall be owned by the village and kept in the office of the Village Clerk/Treasurer a common seal of the corporation having engraved thereon the words “Bennet, Lancaster County, Nebraska, Village Seal.”

(B) The Village Clerk/Treasurer shall affix an impression of the official seal to all warrants, licenses, ordinances, and other papers issued by order of the Board of Trustees and countersigned by the Clerk/Treasurer.
(1994 Code, § 1-401)

§ 11.02 VILLAGE LIMITS.

(A) As used in this code, the terms ***VILLAGE LIMITS, CORPORATE LIMITS OF THE VILLAGE*** and all similar terms shall mean the area included within the boundaries of the original village of Bennet plus all other areas added by annexation or otherwise.

(B) There shall be kept in the office of the Village Clerk/Treasurer 1 or more maps which shall show all areas which are located within the village limits. The map or maps shall be kept available for public inspection during regular business hours at the Village Hall.

Bennet – General Provisions

TITLE III: ADMINISTRATION

Chapters:

- 30. ELECTED OFFICIALS; ORDINANCES**
- 31. APPOINTED VILLAGE OFFICIALS**
- 32. DEPARTMENTS, BOARDS, AND COMMISSIONS**
- 33. GENERAL PROVISIONS**
- 34. FINANCE AND REVENUE**
- 35. SALES AND USE TAX**

Bennet – Administration

CHAPTER 30: ELECTED OFFICIALS; ORDINANCES

Sections:

General Provisions

- 30.01 Elected Officials; Vacancy
- 30.02 Vacancy Due to Unexcused Absences

Board of Trustees

- 30.15 Organization
- 30.16 Powers and Duties
- 30.17 Village Board Chairperson; Selection and Duties

Ordinances, Resolutions, and Motions

- 30.30 Grant of Power
- 30.31 Procedure for Resolutions and Motions
- 30.32 Introduction of Ordinances
- 30.33 Ordinances; Style, Title
- 30.34 Reading and Passage of Ordinances, Resolutions, Orders, Bylaws
- 30.35 Publication or Posting
- 30.36 Certificate of Publication or Posting
- 30.37 Effective Date; Emergency Ordinances
- 30.38 Amendments and Revisions

GENERAL PROVISIONS

§ 30.01 ELECTED OFFICIALS; VACANCY.

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

(B) Except as otherwise provided in divisions (D) or (E) of this section, vacancies in village elected offices shall be filled by the Board of Trustees 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 the 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 3 public places in the village the office vacated and the length of the unexpired term.

Bennet – Administration

(C) The Chairperson of the Board shall, within 4 weeks after the meeting at which the notice of vacancy has been presented or upon the death of the incumbent, call a special meeting of the Board or place the issue of filling the vacancy on the agenda at the next regular meeting at which time the Chairperson shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term. The Board shall vote upon the nominee, and if a majority votes in favor of the 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 Chairperson 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 Chairperson shall continue at the meeting to submit the names of qualified registered voters in nomination, and the Board shall continue to vote upon the nominations, until the vacancy is filled. All Trustees 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 the person were elected.

(D) The Chairperson and Board of Trustees may, in lieu of filling a vacancy in a village elected office as provided in divisions (B) and (C) of this section, call a special election to fill the vacancy.

(E) If vacancies exist in the offices of a majority of the members of the Board of Trustees, the Secretary of State shall conduct a special election to fill the vacancies, except that the Board of Trustees of a village situated in more than 1 county shall have power to fill by appointment any vacancy that may occur in their number.

(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 Board of Trustees during the remainder of his or her term of office.
(Neb. RS 32-560 through 32-572, 32-1308)
(Ord. 1999-7.13, passed 7-12-1999)

§ 30.02 VACANCY DUE TO UNEXCUSED ABSENCES.

(A) In addition to the events listed in Neb. RS 32-560 and any other reasons for a vacancy provided by law, after notice and a hearing, a vacancy on the Board of Trustees shall exist if a member is absent from more than 5 consecutive regular meetings of the Board unless the absences are excused by a majority vote of the remaining members.
(Neb. RS 19-3101)

(B) The Board of Trustees shall take a vote on whether to excuse a member's absence from a meeting upon either a written request from the member submitted to the Village Clerk/Treasurer or a motion of any other Board member.

(C) If a member has been absent from 6 consecutive regular meetings and none of the absences have been excused by a majority vote of the remaining members, the Village Clerk/Treasurer shall include this as an item on the agenda for the next regular meeting. At that meeting, the Board shall set a date for a hearing and direct the Village Clerk/Treasurer to give the member notice of the hearing by personal service or first-class mail to the member's last-known address.

Elected Officials; Ordinances

(D) At the hearing, the Board member shall have the right to present information on why 1 or more of the absences should be excused. If the board does not excuse 1 or more of the member's absences by a majority vote at the conclusion of the hearing, there shall be a vacancy on the Board.
(Ord. 2003-10.3, passed 10-20-2003)

BOARD OF TRUSTEES

§ 30.15 ORGANIZATION.

The Board of Trustees shall consist of 5 members. Any person who is a citizen of the United States, a resident of the municipality at the time of his or her election, and a registered voter may be eligible to be elected to the Board of Trustees. Every Trustee so elected and so qualified shall hold his or her office for a term of 4 years, provided that a Trustee's term shall expire and the office will become vacant upon a change of residence from the municipality. The members of the Board of Trustees shall, before entering upon the duties of their office, take an oath to support the Constitution of the United States, and the Constitution of the State of Nebraska, and faithfully and impartially discharge the duties of their office. All Trustees elected to office shall qualify and meet at the first regular meeting of the Board in December, organize, and appoint the municipal officers required by law.
(Neb. RS 17-202 through 17-204, 32-532) (1994 Code, § 1-102)

§ 30.16 POWERS AND DUTIES.

(A) The Board of Trustees shall have the power to pass ordinances to prevent and remove nuisances; to restrain and prohibit gambling; to provide for licensing and regulating theatrical and other amusements within the village; to prevent the introduction and spread of contagious diseases; to establish and regulate markets; to erect and repair bridges; to erect, repair, and regulate wharves and the rates of wharfage; to regulate the landing of watercraft; to provide for the inspection of building materials to be used or offered for sale in the village; to govern the planting and protection of shade trees in the streets and the building of structures projecting upon or over and adjoining, and all excavations through and under, the sidewalks of the village; and in addition to the special powers herein conferred and granted, to maintain the peace, good government, and welfare of the village and its trade, commerce, and manufactories; and to enforce all ordinances by inflicting penalties upon inhabitants or other persons for violation thereof not exceeding \$500 for any 1 offense, recoverable with costs.
(Neb. RS 17-207)

(B) The village has the power and authority by ordinance to define, regulate, suppress, and prevent nuisances, and to declare what constitutes a nuisance, and to abate and remove the same. The village may exercise the power and authority within its zoning jurisdiction.
(Neb. RS 18-1720) (Ord. 2000-7.9, passed 7-10-2000)

§ 30.17 VILLAGE BOARD CHAIRPERSON; SELECTION AND DUTIES.

The Village Board Chairperson shall be selected at the first regular meeting of the Board of Trustees in December by the Board of Trustees from its own membership. The Chairperson shall preside at all meetings of the Board of Trustees. In the absence of the Chairperson, the Board of Trustees shall elect 1 of its own body to occupy the position temporarily who shall hold the title of

Bennet – Administration

Chairperson pro tempore of the Board of Trustees. The Chairperson and the Chairperson pro tempore shall have the same powers and privileges as other members of the Board of Trustees. The Chairperson shall cause the ordinances of the Board of Trustees to be printed and published for the information of the inhabitants. The Chairperson shall also perform all duties of his or her office in accordance with the laws of the State of Nebraska, and the ordinances of the municipality. The qualifications for the Chairperson shall be the same general qualifications that apply to the members of the Board of Trustees.
(1994 Code, § 1-101)

Statutory reference:

General Provisions, See Neb. RS 17-202 through 17-210

ORDINANCES, RESOLUTIONS, AND MOTIONS

§ 30.30 GRANT OF POWER.

The Board of Trustees may make all ordinances, bylaws, rules, regulations, and resolutions, not inconsistent with the laws of the State of Nebraska, as may be expedient for maintaining the peace, good government, and welfare of the municipality and its trade, commerce, and manufactories.
(Neb. RS 17-505) (Ord. 1997-8.4, passed 8-11-1997)

§ 30.31 PROCEDURE FOR RESOLUTIONS AND MOTIONS.

Resolutions and motions shall be introduced in 1 of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly read 1 time in the presence and hearing of a majority of the members elected to the Board of Trustees. The issue raised by the resolution or motion shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the Board of Trustees. A majority vote shall be required to pass any resolution or motion. The vote on any resolution or motion shall be by roll call vote.
(1994 Code, § 1-603)

§ 30.32 INTRODUCTION OF ORDINANCES.

Ordinances shall be introduced by members of the Board of Trustees in 1 of the following ways:

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

(B) With the recognition of the Chairperson, a member may present the proposed ordinance to the Clerk/Treasurer who, in the presence and hearing of a majority of the members elected to the Board of Trustees, shall read aloud the substance of the ordinance and file it for future consideration.
(Ord. 1997-8.5, passed 8-11-1997)

Elected Officials; Ordinances

§ 30.33 ORDINANCES; STYLE, TITLE.

(A) The style of all municipal ordinances shall be: "Be it ordained by the Chairman and Board of Trustees of the Village of Bennet, Nebraska."
(1994 Code, § 1-604)

(B) No ordinance shall contain a subject which is not clearly expressed in the title.
(Neb. RS 17-613, 17-614) (1994 Code, § 1-605)

Statutory references:

Additional Requirements, See Neb. RS 17-614

Adoption of Standard Codes, See Neb. RS 18-132

§ 30.34 READING AND PASSAGE OF ORDINANCES, RESOLUTIONS, ORDERS, BYLAWS.

(A) Ordinances of a general or permanent nature shall be read by title on 3 different days unless 3/4 of the Board of Trustees vote to suspend this requirement, except that the requirement shall not be suspended for any ordinance for the annexation of territory. In case the requirement is suspended, the ordinance shall be read by title and then moved for final passage. A reading of any ordinance in full may be required by 3/4 of the Board of Trustees before enactment under either procedure set out in this section. All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the Board of Trustees.
(Neb. RS 17-614)

(B) On the passage or adoption of every bylaw or ordinance, and every resolution or order to enter into a contract by the Board of Trustees, the yeas and nays shall be called and recorded. To pass or adopt any bylaw, ordinance, or any resolution or order a concurrence of a majority of the whole number of members elected to the Board of Trustees shall be required. All appointments of the officers by the Board of Trustees shall be made viva voce, and the concurrence of a like majority shall be required, and the names of those, and for whom they voted, on the vote resulting in an appointment, shall be recorded. The requirements of a roll call or viva voce vote shall be satisfied by a municipality which utilizes an electronic voting device which allows the yeas and nays of each member of the Board of Trustees to be readily seen by the public.
(Neb. RS 17-616)
(Ord. 1997-8.6, passed 8-11-1997)

§ 30.35 PUBLICATION OR POSTING.

All ordinances of a general nature shall, before they take effect, be published 1 time, within 15 days after they are passed:

(A) In some newspaper published in the municipality or, if no paper is published in the municipality, then by posting a written or printed copy in each of 3 public places in the municipality; or

(B) In book or pamphlet form.
(Neb. RS 17-613) (Ord. 1997-8.7, passed 8-11-1997)

Bennet – Administration

Statutory references:

Chairperson of Board of Trustees, Duties, See Neb. RS 17-210

Emergency Ordinance, See Neb. RS 17-613

Publication or Posting Required, See Neb. RS 18-131

§ 30.36 CERTIFICATE OF PUBLICATION OR POSTING.

The passage, approval, and publication or posting of an ordinance shall be sufficiently proved by a certificate under the seal of the municipality from the Village Clerk/Treasurer showing that the ordinance was passed and approved, and when and in what paper the ordinance was published, or when and by whom and where the ordinance was posted.

(Neb. RS 17-613) (1994 Code, § 1-608)

Statutory reference:

Passage; Rules and Regulations, See Neb. RS 17-615

§ 30.37 EFFECTIVE DATE; EMERGENCY ORDINANCES.

(A) Except as provided in § 30.35 and division (B) of this section, an ordinance for the government of the municipality which has been adopted by the Board of Trustees without submission to the voters of the municipality shall not go into effect until 15 days after the passage of the ordinance.

(Neb. RS 19-3701)

(B) In the case of riot, infectious or contagious diseases, or other impending danger, failure of a public utility, or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the Chairperson and the posting thereof in at least 3 of the most public places in the municipality. The emergency ordinance shall recite the emergency, be passed by a 3/4 vote of the Board of Trustees, and be entered of record on the Village Clerk/Treasurer's minutes.

(Neb. RS 17-613) (1994 Code, § 1-609)

§ 30.38 AMENDMENTS AND REVISIONS.

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that an ordinance revising all the ordinances of the municipality and modifications to zoning or building districts may be adopted as otherwise provided by law.

(Neb. RS 17-614) (Ord. 1997-8.8, passed 8-11-1997)

CHAPTER 31: APPOINTED VILLAGE OFFICIALS

Sections:

31.01	Appointment; Removal
31.02	Merger of Offices
31.03	Village Clerk
31.04	Village Treasurer
31.05	Village Clerk/Treasurer Position Created
31.06	Village Attorney
31.07	Village Utilities Superintendent
31.08	Regular Engineer
31.09	Special Engineer
31.10	Zoning Administrator

§ 31.01 APPOINTMENT; REMOVAL.

(A) The Board of Trustees may appoint a Village Clerk/Treasurer, Attorney, and Utilities Superintendent.

(B) (1) It shall also appoint a Board of Health consisting of 3 members: the Chairperson of the Village Board, who shall be Chairperson, and 2 other members.

(2) One member shall be a physician or health care provider, if 1 can be found who is willing to serve.

(3) The physician or health care provider, if appointed, shall be the Board's medical advisor.

(C) The Board of Trustees shall also appoint the additional officials and employees as they may determine the municipality needs.

(D) All the appointees shall hold office for 1 year, unless sooner removed by the Chairperson of the Board of Trustees by and with the advice and consent of the remainder of the Board of Trustees.

(Neb. RS 17-208, 17-541) (Ord. 1997-8.2, passed 8-11-1997)

§ 31.02 MERGER OF OFFICES.

The Board of Trustees may, at its discretion, by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any offices or employments, except Village Chairperson and Trustee, with any other elective or appointive office or employment so that 1 or more of the offices or employments or any combination of duties of any offices or employments may be held by the same officer or employee at the same time. 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 or combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the

Bennet – Administration

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. RS 17-108.02) (1994 Code, § 1-202)

§ 31.03 VILLAGE CLERK.

(A) The Village Clerk shall attend the meetings of the Board of Trustees and keep a correct journal of the proceedings of that body. He or she shall keep a record of all outstanding bonds against the municipality and when any bonds are sold, purchased, paid, or canceled, the record shall show the fact. He or she shall make, at the end of the fiscal year, a report of the business of the municipality transacted through his or her office for the year. That record shall describe particularly the bonds issued and sold during the year, and the terms of the sale with each, and every item, and expense thereof. He or she shall file all official bonds after the same shall have been properly executed and approved. He or she shall make the proper certificate of passage which shall be attached to original copies of all bond ordinances hereafter enacted by the Board of Trustees.

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

(C) The Village Clerk shall permit no records, public papers, or other documents of the municipality kept and preserved in his or her office to be taken therefrom, except by the officers of the municipality as may be entitled to the use of the same, but only upon their leaving a receipt therefor. He or she shall keep all the records of his or her office, including a record of all licenses issued by him or her in a blank book with a proper index. He or she shall include as part of his or her records all petitions under which the Board of Trustees shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions and ordinances relating to the same. He or she shall endorse the date and hour of filing upon every paper or document so filed in his or her office. All the filings made by him or her shall be properly docketed. Included in his or her records shall be all standard codes, amendments thereto, and other documents incorporated by reference and arranged in triplicate in a manner convenient for reference. He or she shall keep an accurate and complete account of the appropriation of the several funds and draw, sign, and attest all warrants ordered for the payment of money on the particular fund from which the same is payable. At the end of each month, he or she shall then make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records at all reasonable times.

(D) (1) The Village Clerk shall deliver all warrants, ordinances, and resolutions under his or her charge to the Chairperson for his or her signature. He or she shall also deliver to officers, employees, and committees all resolutions and communications which are directed at the officers, employees, or committees. With the seal of the municipality, he or she shall duly attest the Chairperson's signature to all ordinances, deeds, and papers required to be attested to when ordered to do so by the Board of Trustees.

(2) Within 30 days after any meeting of the Board of Trustees, the Village Clerk shall prepare and publish the official proceedings of the Board of Trustees in a legal newspaper of general circulation in the municipality and which was duly designated as such by the Board of Trustees. The 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,

Appointed Village Officials

except that the aggregate amount of all payroll claims may be included as 1 item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to the job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for the publication shall not exceed the rates provided by the statutes of the State of Nebraska, Neb. RS 19-1102 and 23-122.

(Neb. RS 19-1102)

(3) The publication shall be charged against the general fund.
(Neb. RS 19-1103)

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

(E) The Village Clerk shall receive all objections to creation of paving districts and other street improvements. He or she shall receive the claims of any person against the municipality, and in the event that the claim is disallowed in part or in whole, the Village Clerk shall notify the claimant, his or her agent, or attorney by letter within 5 days after the disallowance, and the Village Clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

(F) 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 Board of Trustees. He or she shall destroy municipal records under the direction of the State Records Board pursuant to Neb. RS 84-1201 through 84-1227, provided that the Board of Trustees shall not have the authority to destroy the minutes of the Village Clerk, the permanent ordinances, and resolution books, or any other records classified as permanent by the State Records Board.
(1994 Code, § 1-204)

Statutory References:

Duties Generally, See Neb. RS 17-605

Examination of Public Records Free of Charge, See Neb. RS 84-712

Penalty for Failure to Perform Duties, See Neb. RS 19-1104

Publication of Official Proceedings; Fiscal Year Report, See Neb. RS 19-1101, et seq.

Publication Rates, See Neb. RS 23-122 and Neb. RS 33-141 through 33-143

Records Management Act, See Neb. RS 84-1201 through 84-1227

§ 31.04 VILLAGE TREASURER.

(A) The Village Treasurer shall be the custodian of all moneys belonging to the municipality. He or she shall keep all money belonging to the municipality separate and distinct from his or her own money. He shall keep a separate account of each fund or appropriation, and the debits, and credits belonging thereto. He or she shall issue duplicate 2 receipts for all moneys received by him or her for the municipality. He or she shall give to every person paying money into the Village Treasury a receipt therefor, specifying the date of payment and the account paid. One of the receipts shall be filed with his or her monthly report, and the last copy of the receipt shall be kept on file in his or her office. His or her books, and accounts shall always be open for inspection by any citizen of the municipality whenever any municipal fiscal record, audit, warrant, voucher, invoice, purchase order, requisition, payroll check, receipt or other record of receipt, cash or expenditure involving public funds is involved. He or she shall cancel all bonds, coupons, warrants, and other evidences of debt against the municipality, whenever paid by him or her, by writing, or

Bennet – Administration

stamping on the face thereof, "Paid by the Village Treasurer," with the date of payment written or stamped thereon. He or she shall collect all special taxes, allocate special assessments to the several owners and shall obtain from the County Treasurer a monthly report as to the collection of delinquent taxes. The Treasurer's daily cash book shall be footed and balanced daily, and he or she shall adopt the bookkeeping methods as the Board of Trustees shall prescribe. He or she shall invest and collect all money owned by, or owed to the municipality as directed by the Board of Trustees. (Neb. RS 17-606 through 17-609, 84-712) (1994 Code, § 1-205)

(B) The Village Treasurer shall at the end of each, and every month, and the other times as the Board of Trustees may deem necessary, render an account to the Board of Trustees under oath showing the financial state of the municipality at that date, the amount of money remaining in each fund and the amount paid therefrom, and the balance of money remaining in the treasury. He or she shall accompany the account with a statement of all receipts, and disbursements, together with all warrants redeemed, and paid by him or her. He or she shall also produce depository evidence that all municipal money is in a solvent, and going bank in the name of the municipality. If the Village Treasurer shall neglect, or fail for the space of 20 days from the end of each and every month to render his or her accounts as aforesaid, the Board of Trustees shall, by resolution, declare the office vacant, and appoint some person to fill the vacancy. The Village Treasurer shall be present at each regular meeting of the Board of Trustees at which time he or she shall read, and file his or her monthly report.

(Neb. RS 17-606) (1994 Code, § 1-206)

(C) The Village Treasurer shall publish in a legal newspaper having general circulation within the municipality, within 60 days following the close of the fiscal year, a report of the activities of his or her office which the report shall show in detail. The report shall include all receipts, disbursements, warrants outstanding, and the debit or credit balance of the municipality.

(Neb. RS 19-1101) (1994 Code, § 1-207)

§ 31.05 VILLAGE CLERK/TREASURER POSITION CREATED.

The appointive offices of Village Clerk and Village Treasurer are hereby combined and merged, in accordance with the authority granted to the Board of Trustees by § 31.02. (1994 Code, § 1-203)

§ 31.06 VILLAGE ATTORNEY.

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

Appointed Village Officials

Attorney for legal services on the terms as the Board of Trustees and the Village Attorney may agree, and to employ any additional legal assistance as may be necessary out of the funds of the municipality.
(1994 Code, § 1-208)

Statutory Reference:

Authorizing and Similar Provisions, See Neb. RS 17-610

§ 31.07 VILLAGE UTILITIES SUPERINTENDENT.

(A) A Utilities Superintendent shall be appointed in the event that there is more than 1 municipal utility and the Board of Trustees determines that it is in the best interest of the municipality to appoint 1 official to have the immediate control over all the municipal utilities. Any vacancy occurring in the office by death, resignation, or removal may be filled in the manner hereinbefore provided for the appointment of all municipal officials.

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

(1) *Water Department.* He or she shall have general supervision and control over the municipal water system and shall be primarily responsible for its economic operation and prudent management. Included in the water system shall be the water plant, the pump house, all machinery, and appliances used in connection with producing and distributing water to inhabitants of the municipality. All actions, decisions, and procedures of the Utilities Superintendent shall be subject to the general directives and control of the Board of Trustees. The Utilities Superintendent shall have the general control and supervisory authority over all employees of the Water System which the Board of Trustees may from time to time hire to operate and maintain the system. Unless some other official is specifically designated, he or she shall collect all money received by the municipality on account of the system of waterworks and shall faithfully account for and pay over to the Village Treasurer all the money collected in the name of the municipality and receive a receipt from the Village Treasurer for the depository evidence of the faithful discharge of this duty. This receipt shall then be filed with the Village Clerk, and the second copy shall be kept by the Superintendent. He or she shall make a detailed report to the Board of Trustees at least once every 6 months of the condition of the water system, of all mains, pipes, hydrants, reservoirs, and machinery and the improvements, repairs, and extensions thereof as he or she may think proper. The report shall show the amount of receipts and expenditures on account thereof for the preceding 6 months. No money shall be expended for improvements, repairs, or extensions of the waterworks system except upon the recommendation of the Superintendent. The Utilities Superintendent shall provide a bond conditioned upon the faithful discharge of duties which shall amount to not less than the amount set by resolution of the Board of Trustees and on file in the office of the Village Clerk/Treasurer. He or she shall perform the additional duties as may be prescribed by the Board of Trustees.

(2) *Sewer Department.* The Utilities Superintendent shall have the immediate control and supervision over all the employees and property that make up the municipal sewer system, subject to the general control and directives of the Board of Trustees. He or she shall at least every 6 months make a detailed report to the Board of Trustees on the condition of the sewer system and shall direct their attention to the improvements, repairs, extensions, additions, and additional employees as he or she may believe are needed along with an estimate of the cost thereof. He or she shall have the other duties as the Board of Trustees may delegate. He or she shall issue permits for all connections to the municipal sewer system and inspect and supervise all repairs made to the system.

Bennet – Administration

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

(1994 Code, § 1-211)

Statutory Reference:

Incentive Payments to Street Superintendents, See Neb. RS 39-2512

Water Commissioner Required, See Neb. RS 17-541

§ 31.08 REGULAR ENGINEER.

The Village Engineer shall make all surveys, estimates, and calculations necessary to be made for the establishment of any public utilities, and the costs of labor and materials therefor. He or she shall accurately make all plats, sections, and maps as may be necessary under the direction of the Board of Trustees. Upon request, he or she shall make estimates of the cost of labor and material which may be done or furnished by contract with the municipality, and make all surveys, estimates, and calculations necessary to be made for the establishment of grades, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, bridges, curbing, and gutters and the improvement of streets and erection and repair of buildings, and shall perform the other duties as the Board of Trustees may require.

(Neb. RS 17-150, 17-405, 17-568.01, 17-919, 81-839) (1994 Code, § 1-209)

§ 31.09 SPECIAL ENGINEER.

(A) The Board of Trustees may employ a Special Engineer to make or assist the Village Engineer in making any particular estimate, survey, or other work.

(B) The Special Engineer shall make a record of the minutes of his or her surveys and all other work done for the municipality.

(C) He or she shall, when directed by the Board of Trustees, accurately make all plats, sections, profiles, and maps as may be necessary in the judgment of the Board of Trustees.

(D) He or she shall, upon request of the Board of Trustees, make estimates of the costs of labor and material which may be done or furnished by contract with the municipality and make all surveys, estimates, and calculations necessary for the establishment of grades, bridges, 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, and shall perform the other duties as the Board of Trustees may require.

(E) All records of the Special Engineer shall be public records which shall belong to the municipality and shall be turned over to his or her successor.

(1994 Code, § 1-210)

Appointed Village Officials

Statutory Reference:

Authority to Employ Special Engineer, See Neb. RS 17-568

Duties Related to Annexation, See Neb. RS 17-405

Duties Related to Public Works, See Neb. RS 17-568.01

Duties Related to Sewers, See Neb. RS 17-919

Engineers and Architects Regulation Act, See Neb. RS 81-3401 through 81-3455

§ 31.10 ZONING ADMINISTRATOR.

The Chairperson, with the advice and consent of the Board of Trustees, may appoint a Zoning Administrator. In the absence of a specific appointment by the Chairperson, the Village Clerk/Treasurer is hereby designated as Zoning Administrator.
(Neb. RS 17-604) (1994 Code, § 1-212)

CHAPTER 32: DEPARTMENTS, BOARDS, AND COMMISSIONS

Sections:

Boards and Commissions

- 32.01 Planning Commission
- 32.02 Board of Adjustment
- 32.03 Board of Health

Utility Departments

- 32.15 Water Department; Operation and Funding
- 32.16 Sewer Department; Operation and Funding

BOARDS AND COMMISSIONS

§ 32.01 PLANNING COMMISSION.

(A) The Planning Commission shall consist of 5 regular members who shall represent, insofar as is possible, the different professions or occupations in the municipality and shall be appointed by the Chairperson, by and with the approval of a majority vote of the members elected to the Board of Trustees. Two of the regular members may be residents of the area over which the municipality is authorized to exercise extraterritorial zoning and subdivision regulation. When there is a sufficient number of residents in the area over which the municipality exercises extraterritorial zoning and subdivision regulation, 1 regular member of the Commission shall be a resident from the area. If it is determined by the Board of Trustees that a sufficient number of residents reside in the area subject to extraterritorial zoning and subdivision regulation, and no such resident is a regular member of the Commission, the first available vacancy on the Commission shall be filled by the appointment of the individual. For purposes of this section, a sufficient number of residents shall mean 500 residents. The term of each regular member shall be 3 years, except that 3 regular members of the first Commission shall serve for terms of 1 year, 3 for terms of 2 years, and 3 for terms of 3 years. All regular members shall hold office until their successors are appointed. Any member may, after a public hearing before the Board of Trustees, be removed by the Chairperson, with the consent of a majority vote of the members elected to the Board of Trustees, for inefficiency, neglect of duty or malfeasance in office, or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by the Chairperson.

(B) All regular members of the Commission shall serve without compensation and shall hold no other municipal office except when appointed to serve on the Board of Adjustment as provided in Neb. RS 19-908. All members of the Commission may be required, in the discretion of the Board of Trustees, to give bond in a sum set by resolution of the Board of Trustees, and conditioned upon the faithful performance of their duties. The Commission shall elect its Chairperson and a Secretary from its members and create and fill the other of its offices as it may determine. The term of the Chairperson and the Secretary shall be 1 year, and they shall be eligible for reelection. No member of the Commission shall serve in the capacity of both the Chairperson and Secretary of the Commission. It shall be the duty of the Secretary to keep the full and correct

Bennet – Administration

minutes and records of all meetings and to file the same with the Village Clerk/Treasurer where they shall be available for public inspection during office hours. The Commission shall be funded by the Board of Trustees from time to time out of the general fund. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the Board of Trustees; and no expenditures nor agreements for expenditures shall be valid in excess of the amounts. A number of Commissioners equal to a majority of the number of regular members appointed to the Commission shall constitute a quorum for the transaction of any business. The Commission shall hold at least 1 regular meeting in each calendar quarter, except the Board of Trustees may require the Commission to meet more frequently and the Chairperson of the Commission may call for a meeting when necessary to deal with business pending before the Commission. Special meetings may also be held upon the call of any 3 members of the Commission. The Commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record. The Commission shall make and adopt plans for the physical development of the municipality, including any areas outside its boundaries which, in the Commission's judgment, bear relation to the planning of the municipality, and shall carry out the other duties and exercise the powers specified in Neb. RS 19-929. All actions by the Commission shall be subject to the review and supervision of the Chairperson and Board of Trustees. The Commission shall make its recommendations to the Board of Trustees so that they are received by the Board of Trustees within 60 days after the Commission begins consideration of a matter relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning. The Commission shall be responsible for making the reports and performing the other duties as the Board of Trustees may, from time to time, designate.

(C) The Chairperson, with the approval of a majority vote of the elected members of the Board of Trustees, shall appoint 1 alternate member to the Commission. The alternate member shall serve without compensation and shall hold no other municipal office. The term of the alternate member shall be 3 years, and he or she shall hold office until his or her successor is appointed and approved. The alternate member may be removed from office in the same manner as a regular member. If the alternate member position becomes vacant other than through the expiration of the term, the vacancy shall be filled for the unexpired portion of the term by the Chairperson with the approval of a majority vote of the elected members of the Board of Trustees. The alternate member may attend any meeting and may serve as a voting and participating member of the Commission at any time when less than the full number of regular Commission members is present and capable of voting.
(Ord. 2001-2.1, passed 3-12-2001)

Statutory Reference:

General Provisions; Planning Commissions Regulated, See Neb. RS 19-924 through 19-929

§ 32.02 BOARD OF ADJUSTMENT.

Notwithstanding the provisions of Neb. RS 19-907 and 19-908, the Board of Trustees shall constitute the Board of Adjustment and shall exercise only the powers granted to the boards by Neb. RS 19-910. As the Board of Adjustment, it shall adopt rules and procedures that are in harmony with Neb. RS 19-907 to 19-910, and shall have the powers and duties therein provided for the Board of Adjustment, and other parties shall have all rights and privileges therein provided for. The concurring vote of 2/3 of the members of the Board of Adjustment shall decide any question upon which it is required to pass the Board.
(Neb. RS 19-911) (1994 Code, § 2-103)

Departments, Boards, and Commissions

§ 32.03 BOARD OF HEALTH.

(A) The Board of Trustees shall appoint a Board of Health which shall consist of 3 members. The members of the Board shall include the Chairperson of the Board of Trustees, who shall serve as Chairperson, and 2 other members. One member shall be a physician or health care provider, if 1 can be found who is willing to serve. The physician or health care provider, if appointed, shall be the Board's medical advisor. The members of the Board shall serve, without compensation, a 1-year term of office, unless reappointed and unless removed by the Chairperson of the Board of Trustees with the advice and consent of the Trustees. The members of the Board shall reorganize at the first meeting in December of each year. No member of the Board of Health shall hold more than 1 Board of Health position.

(B) The Secretary shall keep full and correct minutes and records of all meetings and file the same with the Village Clerk/Treasurer where they shall be available for public inspection during office hours. The Board of Health shall be funded by the Board of Trustees from time to time out of the general fund. A majority of the Board shall constitute a quorum for the purpose of doing business. The Board shall meet at the times as the Board of Trustees may designate. Special meetings may be held upon the call of the Chairperson, or any 2 members of the Board.

(C) The Board shall enact rules and regulations, which shall have the full force and effect of law, to safeguard the health of the people of the municipality. The Board shall to enforce the rules and regulations and provide fines and punishments for any violations thereof. It may regulate, suppress, and prevent the occurrence of nuisances and enforce all laws of the State of Nebraska and ordinances of the municipality relating to nuisances and to matters of sanitation which affect the health and safety of the people. The Board shall regularly inspect the premises and businesses as the Board of Trustees may direct. All members of the Board shall be responsible for making the reports and performing the other duties as the Board of Trustees may, from time to time, designate. (Neb. RS 17-208) (Ord. 1997-8.3, passed 8-11-1997)

UTILITY DEPARTMENTS

§ 32.15 WATER DEPARTMENT; OPERATION AND FUNDING.

The municipality owns and operates the Water Department through the Board of Trustees or its authorized agent. The Board of Trustees, for the purpose of defraying the cost of the care, management, and maintenance of the Water Department may each year levy a tax not exceeding the maximum limit prescribed by state law, on the taxable value of all taxable property within the corporate limits that is subject to taxation. The revenue from the tax shall be known as the water fund and shall remain in the custody of the Village Clerk/Treasurer. The Board of Trustees or its authorized agent shall have the direct management and control of the Water Department. The Board of Trustees shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department. The Board of Trustees shall set the rates to be charged for services rendered and shall file a copy of the rates in the office of the Village Clerk/Treasurer for public inspection at any reasonable time. (1994 Code, § 3-101)

Statutory Reference:

Bonds, Interest, and Taxing Authority, See Neb. RS 17-534

Public Utility Extension and Improvements, See Neb. RS 19-1305

Waterworks Acquisition and Construction Authorized, See Neb. RS 17-531

§ 32.16 SEWER DEPARTMENT; OPERATION AND FUNDING.

(A) The municipality owns and operates the Municipal Sewer System through the Utilities Superintendent. The Board of Trustees, for the purpose of defraying the cost of the operation, maintenance, and replacement (OM&R) of the Municipal Sewer System may establish a user charge system based on actual use and revise the charges, if necessary, to accomplish the following:

(1) Maintain the proportional distribution of operation, maintenance, and replacement (OM&R) costs among users and user classes;

(2) Generate adequate revenues to pay the costs of OM&R; and

(3) Apply excess revenues collected from a class of users to the costs of OM&R attributable to that class for the next year and adjust the rates accordingly.

(B) The revenue from the user charge system based on actual use shall be known as the sewer maintenance fund. The Utilities Superintendent shall have the direct management and control of the Sewer Department and shall faithfully carry out the duties of his office. He or she 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 Board of Trustees.
(Neb. RS 17-149, 17-925.01) (1994 Code, § 3-201)

CHAPTER 33: GENERAL PROVISIONS

Sections:

Meetings

- 33.01 When; Where; Quorum
- 33.02 Special Meetings
- 33.03 Change in Office
- 33.04 Organizational Meetings

Bonds and Oaths

- 33.30 Bonds; Form
- 33.31 Oath of Office; Village Officials

Compensation

- 33.45 Village Officials
- 33.46 Conflict of Interest
- 33.47 Appointed Officials; Salary Ranges
- 33.48 Elected Officials; Salaries

Cross-reference:

Appointed Village Officials, See Ch. 31
Departments, Boards, and Commissions, See Ch. 32
Elected Officials; Ordinances, See Ch. 30
Finance and Revenue, See Ch. 34

MEETINGS

§ 33.01 WHEN; WHERE; QUORUM.

(A) The meetings of the Board of Trustees shall be held at the Village Hall, 685 Monroe Street. Regular meetings shall be held on the second Monday of each month. Regular meetings of the Board shall commence at 8:00 p.m. during the months of April through October and at 7:00 p.m. during the months of November through March.

(B) At all meetings of the Board of Trustees, a majority of the Board shall constitute a quorum to do business. A smaller number may adjourn from day to day and compel the attendance of the absent members. Whether a quorum is present or not, all absent members shall be sent for and compelled to attend.
(Neb. RS 17-205)

(C) At the hour appointed for the meeting, the Village Clerk/Treasurer shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the

Bennet – Administration

Board shall be called to order by the Chairperson, if present. In the absence of the Chairperson, the members of the Board of Trustees shall elect a Chairperson pro tempore.
(1994 Code, § 1-513) (Am. Ord. 2013-2.1, passed 2-11-2013)

Statutory Reference:

Appointment of Chairperson pro tempore, See Neb. RS 17-210

Designation of Time and Place for Meetings, See Neb. RS 17-104

§ 33.02 SPECIAL MEETINGS.

(A) Special meetings may be called by the Chairperson or by 3 members of the Board of Trustees, the object of which shall be submitted to the Board of Trustees in writing. The call and object, as well as the disposition thereof, shall be entered upon the journal by the Village Clerk/Treasurer.

(B) On filing the call for a special meeting, the Village Clerk/Treasurer shall notify the Board of Trustees of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a Trustee known to be out of the state or physically unable to be present.

(C) All ordinances passed at any special meeting shall comply with procedures set forth in §§ 30.30 through 30.38.
(1994 Code, § 1-514)

§ 33.03 CHANGE IN OFFICE.

The change in office shall be made as follows: the Chairperson and Board of Trustees shall meet on the first regular meeting date in December of each year in which a municipal election is held and the outgoing officers and the outgoing members of the Board of Trustees shall present their reports, and upon the old Board of Trustees having completed its business up to the time, the outgoing members of the Board of Trustees shall surrender their offices to the incoming members, and the outgoing officers shall thereupon each surrender to his or her successor in office all property, records, papers, and moneys, belonging to the same.
(1994 Code, § 1-511)

§ 33.04 ORGANIZATIONAL MEETINGS.

(A) The newly elected Board of Trustees shall convene at the regular place of meeting at the first regular meeting of the Board in each election year immediately after the prior Board adjourns and proceed to organize themselves for the ensuing year. The Chairperson pro tempore shall call the meeting to order. The Board shall then proceed to examine the credentials of its members and other elective officers of the municipality to see that each has been duly and properly elected and to see that the oaths and bonds have been given as are required.

(B) After ascertaining that all trustees and officers are duly qualified, the Board shall then elect 1 of its own body who shall be styled as Chairperson of the Board of Trustees. The Chairperson shall then nominate his or her candidates for appointive offices, and the officers shall hold office until their successors are duly appointed and qualified. The Chairperson shall then proceed with the regular order of business.

General Provisions

(C) It is hereby made the duty of each and every member of the Board or of its successors in office and of each officer hereafter elected to any office, to qualify prior to the first regular meeting of the Board in December following his or her election. Immediately upon the assembly of the newly elected Board upon the first regular meeting in December following the election, each officer elected at the general election shall take possession of his or her office. Each appointive officer who is required to give bond shall qualify by filing the required bond, approved by the Board of Trustees, in the office of the Village Clerk/Treasurer within 2 weeks from the date of his or her appointment, provided that on the bond shall be endorsed the same oath as required of a trustee. Failure to qualify by elective or appointive officers within the time and manner provided in this section shall and does in itself create a vacancy in the office to which the person failing to qualify shall have been elected or appointed.
(1994 Code, § 1-512)

Statutory Reference:

Oath; Meetings Generally, See Neb. RS 17-204

BONDS AND OATHS

§ 33.30 BONDS; FORM.

The Board of Trustees may require from all officers and servants, elected or appointed, bonds and security for the faithful performance of their duty. Official bonds of the municipality shall be in form joint and several and shall be made payable to the municipality in the penalty as the Board of Trustees may set by resolution, provided that the penalty amount on any bond shall not fall below the legal minimum, when 1 has been set by the State of Nebraska, for each particular official. All official bonds of the municipal officials shall be executed by the principal named in the bonds and by at least 2 sufficient sureties who shall be freeholders of the county, or by the official as principal and by a guaranty, surety, fidelity, or bonding company, provided that no municipal official, while still in his or her official term of office, shall be accepted as surety on any other official's bond, contractor's bond, license bond, or appeal bond under any circumstances. Only companies that are legally authorized to transact business in the State of Nebraska shall be eligible for suretyship on the bond of an official of the municipality. All the bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of the principal and shall inure to the benefit of the municipality and any persons who may be injured by a breach of the conditions of the bonds. No bond shall be deemed to be given or complete until the approval of the Board of Trustees and all sureties are endorsed in writing on the said instrument by the Chairperson and Village Clerk/Treasurer pursuant to the approval of the Board of Trustees. The premium on any official bond required to be given may be paid out of the general fund or other proper municipal fund, upon a resolution to that effect by the Board of Trustees at the beginning of any municipal year. All official bonds, meeting the conditions herein, shall be filed with the Village Clerk/Treasurer for his or her official records, and it shall be the duty of the Village Clerk/Treasurer to furnish a certified copy of any bond so filed upon the payment of a fee, which shall be set by resolution of the Board of Trustees. In the event that the sureties on the official bond of any officer of the municipality, in the opinion of the Board of Trustees, become insufficient, the Board of Trustees may, by resolution, fix a reasonable time within which the officer may give a new bond or additional sureties as directed. In the event that the officer should fail, refuse, or neglect to give a new bond or additional sureties to the satisfaction and approval of the Board of Trustees, then the office shall, by the failure, refusal, or neglect, become vacant, and it shall be the duty of the Board of Trustees to appoint a competent and qualified person to fill the said office. Any official who is re-elected to office shall be required to file a new bond after each election.
(1994 Code, § 1-301)

Bennet – Administration

Statutory Reference:

Bonds Generally and Similar Provisions, See Neb. RS 11-103 through 11-118

Power to Regulate Offices, See Neb. RS 17-604

§ 33.31 OATH OF OFFICE; VILLAGE OFFICIALS.

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

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

(B) If any officer is not required to give bond, the oath shall be filed with the Village Clerk/Treasurer.

(Neb. RS 11-101) (1994 Code, § 1-302)

COMPENSATION

§ 33.45 VILLAGE OFFICIALS.

(A) The compensation of any elective official of the municipality shall not be increased or diminished during the term for which he or she shall have been elected except when there has been a merger of offices, provided that the compensation of the members of the Board of Trustees, 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 1 or more members commence and end at different times.

(B) No elected official may be rehired at a greater salary if he or she resigns and desires to be rehired during the unexpired term of office. He or she may be rehired after the term of office during which he or she resigned at a greater salary.

(C) All salaries shall be set by ordinance of the Board of Trustees and will be available for public inspection at the office of the Village Clerk/Treasurer.
(1994 Code, § 1-901)

Statutory Reference:

Compensation for Merged Offices, See Neb. RS 17-209.02

Compensation of Elected Offices Regulated, See Neb. RS 17-612

General Provisions

§ 33.46 CONFLICT OF INTEREST.

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

BUSINESS ASSOCIATION.

(a) A business:

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

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

(b) An individual who occupies a confidential professional relationship protected by law shall be exempt from this definition. This definition shall not apply to publicly traded stock under a trading account if the filer reports the name and address of the stockbroker.
(Neb. RS 49-1408)

IMMEDIATE FAMILY. A child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes.
(Neb. RS 49-1425)

OFFICER.

(a) Means:

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

2. Any elected municipal official.

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

(B) (1) (a) Except as provided in Neb. RS 49-1499.04, no officer may have an interest in any contract to which his or her governing body, or anyone for its benefit, is a party. The existence of an interest in any contract shall render the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment of the contract with actual knowledge of the prohibited conflict.

(b) An action to have a contract declared void under this section may be brought by the County Attorney, the governing body, or any resident within the jurisdiction of the governing body and shall be brought within 1 year after the contract is signed or assigned. The decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the governing body has benefitted thereby.

Bennet – Administration

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

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

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

(C) Division (B) of this section does not apply if the contract is an agenda item approved at a meeting of the governing body and the interested officer:

(1) Makes a declaration on the record to the governing body responsible for approving the contract regarding the nature and extent of his or her interest prior to official consideration of the contract;

(2) Does not vote on the matters of granting the contract, making payments pursuant to the contract, or accepting performance of work under the contract, or similar matters relating to the contract, except that if the number of members of the governing body declaring an interest in the contract would prevent the body with all members present from securing a quorum on the issue, then all members may vote on the matters; and

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

(D) An officer who has no business association with the business involved in the contract or will not receive a direct pecuniary fee or commission as a result of the contract shall not be deemed to have an interest within the meaning of this section.

(E) The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any governing body by a financial institution shall not be considered a contract for purposes of this section. The ownership of less than 5% of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section.

(F) If an officer's parent, spouse, or child is an employee of the officer's governing body, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his or her parent, spouse, or child for special action.

(G) (1) The person charged with keeping records for the governing body shall maintain separately from other records a ledger containing the information listed in divisions (a) through (e) of this division (H)(1) about every contract entered into by the governing body in which an officer of the body has an interest and for which disclosure is made pursuant to division (C) of this section. The information shall be kept in the ledger for 5 years from the date of the officer's last day in office and shall include the:

(a) Names of the contracting parties;

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

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

(d) Amount of the contract; and

General Provisions

(e) Basic terms of the contract.

(2) The information supplied relative to the contract shall be provided no later than 10 days after the contract has been signed by both parties. The ledger kept pursuant to this division (G) shall be available for public inspection during the normal working hours of the office in which it is kept.

(Neb. RS 49-14,103.02)

(H) An open account established for the benefit of any governing body with a business in which an officer has an interest shall be deemed a contract subject to this section. The statement required to be filed by division (G) of this section shall be filed within 10 days after the account is opened. Thereafter, the person charged with keeping records for the governing body shall maintain a running account of amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to this section.

(Neb. RS 49-14,103.03)

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

(Neb. RS 49-14,103.05)

(J) The governing body may exempt from divisions (A) through (H) of this section, contracts involving \$100 or less in which an officer of the body may have an interest.

(Neb. RS 49-14,103.06) (1994 Code, § 1-902)

Statutory Reference:

Contracts with Governmental Bodies, See Neb. RS 49-14,102

Private Gain by Public Officers, See Neb. RS 18-305 through 18-312

Utility Officers Permitted to Serve in Elected Office, See Neb. RS 70-624.04

§ 33.47 APPOINTED OFFICIALS; SALARY RANGES.

(A) Commencing January 1, 2013, the salary ranges for the appointed officials of the Village of Bennet, Nebraska, are hereby fixed as follows:

(1) Village Clerk/Treasurer - \$7.25 to \$20 per hour;

(2) Office Assistant - \$7.25 to \$16 per hour;

(3) Utilities Superintendent - \$10 to \$20 per hour;

(4) Maintenance Personnel - \$10 to \$18 per hour;

(5) Garbage Transfer Site Custodian - \$7.25 to \$15 per hour; and

(6) Additional Permanent or Temporary, Part-Time Employees - \$7.25 to \$20 per hour.

(B) The exact salary of the above appointed officials within the salary ranges set forth above shall be established by resolution of the Village Board of Trustees and this section and the resolutions adopted pursuant to this section shall be available for public inspection in the office of

Bennet – Administration

the Village Clerk/Treasurer of the Village of Bennet, Nebraska. All salaries of the appointed officials of the Village of Bennet, Nebraska, shall be published as provided by law. (Ord. 2002-6.1, passed 6-10-2002; Am. Ord. 2005-6.1, passed 6-13-2005; Am. Ord. 2005-11.2, passed 11-14-2005; Am. Ord. 2008-10.3, passed 10-13-2008; Am. Ord. 2011-2.1, passed 2-14-2011; Am. Ord. 2011-12.1, passed 12-12-2011; Am. Ord. 2012-12.1, passed 12-10-2012)

§ 33.48 ELECTED OFFICIALS; SALARIES.

(A) The salaries for the elected officials of the Village of Bennet, Nebraska, are hereby fixed as follows:

- (1) Chairperson - \$360 per year; and
- (2) Trustees - \$180 per year.

(B) The salaries shall be paid in December of each year, and shall be prorated in the case of resignation, vacancy created by the operation of law, removal from office, or death. All salaries of elected officials of the Village of Bennet, Nebraska, shall be published as provided by law. (Ord. 1998-11.1, passed 11-9-1998)

CHAPTER 34: FINANCE AND REVENUE

Sections:

General Provisions

- 34.01 Public Funds Defined
- 34.02 Contracts and Purchases; Bidding and other Requirements
- 34.03 Annual Audit; Financial Statements
- 34.04 Claims; Warrants
- 34.05 Expenditures
- 34.06 Special Assessment Fund
- 34.07 Sinking Funds
- 34.08 Deposit of Funds
- 34.09 Certificates of Deposit; Time Deposits; Conditions
- 34.10 Investment of Funds
- 34.11 Bond Issues

Annual Budget

- 34.30 Fiscal Year
- 34.31 Budget Procedures
- 34.32 Expenditures Prior to Adoption of Budget
- 34.33 Proposed Budget Statement; Contents; Availability; Correction
- 34.34 Proposed Budget Statement; Hearing; Adoption; Certification of Tax Amount
- 34.35 Adopted Budget Statement; Filing; Certification of Tax Amount
- 34.36 Appropriation Bill
- 34.37 Budget Revision

Tax Levies

- 34.60 All-Purpose Levy; Allocation; Abandonment; Extraordinary Levies
- 34.61 Property Tax Levy; Maximum; Authority to Exceed
- 34.62 Property Tax; Certification of Amount
- 34.63 Property Tax Levy and Request; Authority to Set
- 34.64 Motor Vehicle Tax

GENERAL PROVISIONS

§ 34.01 PUBLIC FUNDS DEFINED.

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

PUBLIC FUNDS. All money, including nontax money, used in the operation and functions of governing bodies. If the municipality has a lottery established under the Nebraska County and Village Lottery Act, only those net proceeds which are actually received by the municipality from a

Bennet – Administration

licensed lottery operator shall be considered ***PUBLIC FUNDS***, and ***PUBLIC FUNDS*** shall not include amounts awarded as prizes.
(Neb. RS 13-503(7))

§ 34.02 CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS.

(A) Except as provided in Neb. RS 18-412.01, for a contract with a public power district to operate, renew, replace, or add to the electric distribution, transmission, or generation system of the municipality, no contract for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of the enlargement or improvement is assessed to the property, costing over \$20,000, shall be made unless it is first approved by the Board of Trustees.

(B) Except as provided in Neb. RS 18-412.01, before the Board of Trustees makes any contract in excess of \$20,000 for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of the enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the Village Engineer and submitted to the Board of Trustees. In advertising for bids as provided in divisions (C) and (E) of this section, the Board of Trustees may publish the amount of the estimate.

(C) Advertisements for bids shall be required for any contract costing over \$20,000 entered into:

(1) For enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of the enlargement or improvement is assessed to the property; or

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

(D) The advertisement provided for in division (C) of this section shall be published at least 7 days prior to the bid closing in a legal newspaper published in or of general circulation in the municipality and, if there is no legal newspaper published in or of general circulation in the municipality, then in some newspaper of general circulation published in the county in which the municipality is located, and if there is no legal newspaper of general circulation published in the county in which the municipality is located, then in a newspaper, designated by the County Board, having a general circulation within the county where bids are required, and if no newspaper is published in the municipality or county, or if no newspaper has general circulation in the county, then by posting a written or printed copy thereof in each of 3 public places in the municipality at least 7 days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of or serious injury or damage to life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by Neb. RS 17-613 when adopted by a 3/4 vote of the Board of Trustees and entered of record.

(E) If, after advertising for bids as provided in this section, the Board of Trustees receives fewer than 2 bids on a contract or if the bids received by the Board of Trustees contain a price which exceeds the estimated cost, the Board of Trustees may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost commensurate with the estimate given.

Finance and Revenue

(F) If the materials are of a nature that, in the opinion of the manufacturer and with the concurrence of the Board of Trustees, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the purchasing municipality, the Board of Trustees may authorize the manufacture and assemblage of the materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.
(Neb. RS 17-568.01)

(G) Any municipal bidding procedure may be waived by the Board of Trustees:

(1) When materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in Neb. RS 81-145 to 81-162; or

(2) When the contract is negotiated directly with a sheltered workshop pursuant to Neb. RS 48-1503.
(Neb. RS 17-568.02) (Ord. 1999-7.26, passed 7-12-1999)

Statutory reference:

Requirements for Public Lettings, See Neb. RS 73-101, et seq.

§ 34.03 ANNUAL AUDIT; FINANCIAL STATEMENTS.

(A) (1) The Board of Trustees shall cause an audit of the village's accounts to be made by a recognized independent and qualified accountant as expeditiously as possible following the close of the fiscal year and to cover all financial transactions and affairs of the village for the preceding fiscal year. The audit shall be made on a cash or accrual method at the discretion of the Board of Trustees. The audit shall be completed and the annual audit report made by the accountant shall be submitted within 6 months after the close of the fiscal year in any event, unless an extension of time is granted by a written resolution adopted by the Board of Trustees. The Board of Trustees may request a waiver of the audit requirement subject to the requirements of Neb. RS 84-304. If the village is required to conduct an audit under Neb. RS 84-304 and owns or operates any type of public utility or other enterprise which substantially generates its own revenue, the Board of Trustees shall have that phase of the village's affairs reported separately from the other functions of the village. The result of 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 Board of Trustees.

(2) 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, the 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 the opinion with an explanation of the reasons why he or she cannot do so.

(3) (a) At least 3 copies of the annual audit report shall be properly signed and attested by the accountant; 2 copies shall be filed with the Village Clerk/Treasurer and 1 copy shall be filed with the Auditor of Public Accounts.

(b) The annual audit report filed, together with any accompanying comment or explanation, shall become a part of the public records of the Village Clerk/Treasurer and shall at all times thereafter be open and subject to public inspection.

Bennet – Administration

(B) The Board of Trustees shall provide and file with the Village Clerk/Treasurer, not later than August 1 of each year, financial statements showing the village's actual and budgeted figures for the most recently completed fiscal year.
(Neb. RS 13-606) (Ord. 2003-10.8, passed 10-20-2003)

Statutory Reference:

State Municipal Auditing Regulations; Similar Provisions, See Neb. RS 19-2901 through 19-2909

§ 34.04 CLAIMS; WARRANTS.

(A) All claims against the municipality shall be presented to the Board of Trustees in writing with a full account of the items, and no claim or demand shall be audited or allowed unless presented as provided for in this section. No costs shall be recovered against the municipality in any action brought against it for an unliquidated claim which has not been presented to the Board of Trustees to be audited, nor upon claims allowed in part, unless the recovery shall be for a greater sum than the amount allowed, with the interest due. No order or warrant shall be drawn in excess of 85% of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the municipal treasury for the appropriate fund against which it is to be drawn, provided that in the event there exists obligated funds from the federal and/or state government for the general purpose of the warrant, then the warrant may be drawn in excess of 85%, but not more than 100% of the current levy for the purpose for which the warrant is drawn.
(1994 Code, § 1-817)

(B) All warrants drawn upon the municipal treasury must be signed by the Board Chairperson and countersigned by the Village Clerk/Treasurer, stating the particular fund to which the warrant is chargeable, the person to whom payable, and for what particular object. No money shall be otherwise paid than upon warrants so drawn. Each warrant shall specify the amount included in the adopted budget statement for the fund upon which it is drawn and the amount already expended of the fund.
(Neb. RS 17-711) (1994 Code, § 1-818)

Statutory Reference:

Similar Provisions, See Neb. RS 17-714 and 17-715

§ 34.05 EXPENDITURES.

(A) No municipal official shall have the power to appropriate, issue, or draw any order or warrant on the municipal treasury for money, unless the same has been appropriated or ordered by ordinance.
(Neb. RS 17-708)

(B) No expenditure for any improvement to be paid for out of the general fund of the municipality shall exceed in any 1 year the amount provided for that improvement in the adopted budget statement.
(1994 Code, § 1-814)

§ 34.06 SPECIAL ASSESSMENT FUND.

All money received on special tax assessments shall be held by the Village Clerk/Treasurer as a special fund to be applied to the payment of the improvement for which the assessment was

Finance and Revenue

made, and the money shall be used for no other purpose whatever, unless to reimburse the municipality for money expended for the improvement.
(Neb. RS 17-710) (1994 Code, § 1-819)

§ 34.07 SINKING FUNDS.

(A) The Board of Trustees, subject to the limitations set forth herein, shall have the power to levy a tax not to exceed that prescribed by state law upon the taxable value of all taxable property within the municipality for a term not to exceed that prescribed by state law in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the municipality, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, original equipment, or repair, not including maintenance, of the approved uses as authorized by state law.
(Neb. RS 19-1302)

(B) To initiate the sinking fund, the Board of Trustees shall declare its purpose by resolution to submit to the qualified electors of the municipality the proposition to provide the improvement at the next general municipal election. The resolution shall set forth a clear description of the improvement, the estimated cost, the amount of the annual levy, over a definite period of years (not exceeding 10 years) required to pay the 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 the election. Notice of the proposition shall be published in its entirety 3 times on successive weeks before the day of the election in a legal newspaper of general circulation in the municipality. The sinking fund may be established after the election if a majority or more of the legal votes were in favor of the establishment of the fund. The Board of Trustees may then proceed to establish the fund in conformity with the provisions of the proposition and applicable state law. The funds received by the Village Clerk/Treasurer shall, as they accumulate, be immediately invested with the written approval of the Board of Trustees in the manner provided by state law. No sinking fund so established shall be used for any purpose or purposes contrary to the purpose as it appeared on the ballot unless the Board of Trustees is authorized to do so by 60% of the qualified electors of the municipality voting at a general election favoring the change in the use of the sinking fund.
(1994 Code, § 1-820)

Statutory Reference:

Investment of Funds, See Neb. RS 77-2337 and 77-2341

Similar Provisions, See Neb. RS 19-1301 through 19-1304

§ 34.08 DEPOSIT OF FUNDS.

The Board of Trustees, at its first meeting in each fiscal year, shall designate 1 or more banks, capital stock financial institutions, or qualifying mutual financial institutions of approved and responsible standing in which the Village Clerk/Treasurer shall keep at all times all money held by him or her; provided, if more than 1 such bank or institution in the village qualifies and applies for the privilege of keeping the money, the money shall be deposited in each of them, and the Village Clerk/Treasurer shall not give a preference to any 1 or more of them in the money he or she shall deposit. A bond shall be required from all banks or institutions so selected in a penal sum which equals the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or a pledge of sufficient assets of the bank or institution to secure the payment of all the deposits.
(Neb. RS 17-607, 77-2362 through 77-2364) (Ord. 2003-10.9, passed 10-20-2003)

§ 34.09 CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS.

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

(B) For the security of the fund so deposited, the Municipal Clerk/Treasurer shall require each depository to give bond for the safekeeping and payment of the deposits and the accretions thereof, which bond shall run to the municipality and be approved by the Chairperson. The bond shall be conditioned that the a depository shall, at the end of every quarter, render to the Clerk/Treasurer a statement in duplicate, showing the several daily balances, the amount of money of the municipality held by it during the quarter, the amount of the accretion thereto, and how credited. The bond shall also be conditioned that the depository shall generally do and perform whatever may be required by the provisions of this section and all regulations imposed by law or adopted by the Board of Trustees for the receiving and holding thereof and shall faithfully discharge the trust reposed in the depository. The bond shall be as nearly as practicable in the form provided in section Neb. RS 77-2304. No person in any way connected with any depository as an officer or stockholder shall be accepted as a surety on any bond given by the depository of which he or she is an officer or stockholder. The bond shall be deposited with the Village Clerk/Treasurer.

(C) In lieu of the bond required by division (B) above, any bank or capital stock financial institution making application to become a depository may give security as provided in the Public Funds Deposit Security Act to the Village Clerk/Treasurer. The penal sum of the bond shall be equal to or greater than the amount of the deposit in excess of that portion of the deposit insured by the Federal Deposit Insurance Corporation.

(D) The Clerk/Treasurer shall not have on deposit in any bank or capital stock financial institution at any time more than the amount insured by the Federal Deposit Insurance Corporation plus the maximum amount of the bond given by the bank or capital stock financial institution if the bank or capital stock financial institution gives a surety bond, nor in any bank or capital stock financial institution giving a personal bond, more than the amount insured by the Federal Deposit Insurance Corporation plus $\frac{1}{2}$ of the amount of the bond of the bank or capital stock financial institution, and the amount so on deposit any time with any bank or capital stock financial institution shall not in either case exceed the amount insured by the Federal Deposit Insurance Corporation plus the paid-up capital stock and surplus of the bank or capital stock financial institution. The Clerk/Treasurer shall not be liable for any loss sustained by reason of the failure of any bonded depository whose bond has been duly approved by the Chairperson as provided in division (B) of this section or which has, in lieu of a surety bond, given security as provided in division (C) of this section.

(Neb. RS 17-720, 16-714 through 16-716) (Ord. 1999-7.25, passed 7-12-1999)

§ 34.10 INVESTMENT OF FUNDS.

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

Finance and Revenue

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

(Neb. RS 77-2341(1)) (1994 Code, § 1-822)

Statutory Reference:

Investment in Bonds, See Neb. RS 17-608 and 17-609

Investment in Cooperative Credit Associations, See Neb. RS 21-1316.01

Investment of Funds, See Neb. RS 77-2337 and 77-2341

§ 34.11 BOND ISSUES.

(A) The Board of Trustees may, after meeting all the requirements of state law, issue bonds, fund bonds, and retire bonds for the purposes as may be permitted by state law.

(B) The Board of Trustees shall have the authority to levy special assessments for the payment of interest and principal on the bonds and may spread the payments up to the maximum number of years permitted by state law.

(1994 Code, § 1-823)

Statutory Reference:

Bonds in General, See Neb. RS 18-1801 through 18-1805

Boundary Bridge Bonds, See Neb. RS 39-835 through 39-842.01

Cemetery Bonds, See Neb. RS 12-1001 through 12-1004 and RS 17-939

Cold Storage Plant Bonds, See Neb. RS 17-958

Compromise of Indebtedness, See Neb. RS 10-301 through 10-305

Dikes, See Neb. RS 17-529.01

Flood Control Project Bonds, See Neb. RS 17-529.08

Funding and Refunding Bonds, See Neb. RS 10-606 through 10-614

General Provisions, See Neb. RS 10-101 through 10-143

Internal Improvement Bonds, See Neb. RS 10-401 through 10-411

Joint Power Plant Bonds, See Neb. RS 17-911

Library Bonds, See Neb. RS 17-968

Medical and Multiunit Facility Bonds, See Neb. RS 23-3513

Power Plant Bonds, See Neb. RS 17-908

Uniform Registration and Cancellation of Bonds, See Neb. RS 10-201 through 10-209

Utilities Bonds, See Neb. RS 17-905

Waterworks Bonds, See Neb. RS 17-534

ANNUAL BUDGET

§ 34.30 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.

(Neb. RS 17-701) (1994 Code, § 1-801)

§ 34.31 BUDGET PROCEDURES.

The budget instruction manual prepared by the Auditor of Public Accounts is incorporated by reference for the purpose of proper budget preparation.
(1994 Code, § 1-805)

§ 34.32 EXPENDITURES PRIOR TO ADOPTION OF BUDGET.

(A) On and after the first day of its fiscal year in 1993 and of each succeeding year and until the adoption of the budget by the Board of Trustees in September, the Board of Trustees may expend any balance of cash on hand for the current expenses of the municipality. Except as provided in division (B) of this section, the expenditures shall not exceed an amount equivalent to the total amount expended under the last budget in the equivalent period of the prior budget year. The expenditures shall be charged against the appropriations for each individual fund or purpose as provided in the budget when adopted.
(Neb. RS 13-509.01)

(B) The restriction on expenditures in division (A) of this section may be exceeded upon the express finding of the Board of Trustees that expenditures beyond the amount authorized are necessary to enable the municipality to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the statutory authorization shall be adopted by the Board of Trustees in open public session. Expenditures authorized by this section shall be charged against appropriations for each individual fund or purpose as provided in the budget when adopted, and nothing in this section shall be construed to authorize expenditures by the municipality in excess of that authorized by any other statutory provision.
(Neb. RS 13-509.02)

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

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

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

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

Finance and Revenue

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

(4) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property for the purpose of paying the principal or interest on bonds issued by the Board of Trustees and for all other purposes;

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

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

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

(C) The municipality shall correct any material errors in the budget statement detected by the Auditor of Public Accounts or by other sources.
(Neb. RS 13-504)

(D) The estimated expenditures plus the required cash reserve for the ensuing fiscal year less all estimated and actual unencumbered balances at the beginning of the year and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property shall equal the amount to be received from taxes, and the amount shall be shown on the proposed budget statement pursuant to this section. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year.
(Neb. RS 13-505) (Ord. 2003-10.5, passed 10-20-2003)

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

(A) The Board of Trustees shall each year conduct a public hearing on its proposed budget statement. Notice of the place and time of the hearing, together with a summary of the proposed budget statement, shall be published at least 5 days prior to the date set for the hearing in a newspaper of general circulation within the municipality.

(B) After the hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of the hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. The certification of the amount to be received from personal and real property taxation shall specify separately the amount to be

Bennet – Administration

applied to the payment of principal or interest on bonds issued by the Board of Trustees and the amount to be received for all other purposes.

(C) If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of the changes shall be published within 20 days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for the changes.
(Neb. RS 13-506)

(D) When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase.
(Neb. RS 13-507)
(Ord. 2003-10.6, passed 10-20-2003)

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

(A) (1) After publication and hearing on the proposed budget statement and within the time prescribed by law, the Board of Trustees shall file with and certify to the levying board on or before September 20 of each year and file with the Auditor of Public Accounts, a copy of the adopted budget statement, together with the amount of the tax required to fund the adopted budget, setting out separately:

(a) The amount to be levied for the payment of principal or interest on bonds issued by the Board of Trustees; and

(b) The amount to be levied for all other purposes.

(2) Proof of publication shall be attached to the statements.

(B) (1) The Board of Trustees, in certifying the amount required, may make allowance for delinquent taxes not exceeding 5% of the amount required plus the actual percentage of delinquent taxes for the preceding tax year and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order.

(2) For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year which is still pending. Except for the allowances, the Board of Trustees shall not certify an amount of tax more than 1% greater or lesser than the amount determined in the proposed budget statement.

(C) The Board of Trustees may designate 1 of its members to perform any duty or responsibility required of the body by this section.
(Neb. RS 13-508) (Ord. 1999-7.18, passed 7-12-1999)

§ 34.36 APPROPRIATION BILL.

The Board of Trustees shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill," in which are appropriated the sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the municipality.
(Neb. RS 17-706) (1994 Code, § 1-807)

Finance and Revenue

§ 34.37 BUDGET REVISION.

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

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

(2) The budget adopted violated Neb. RS 13-518 to 13-522, so that the revenue of the current fiscal year for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with Neb. RS 13-518 to 13-522; or

(3) The Board of Trustees has been notified by the Auditor of Public Accounts of a mathematical or accounting error or noncompliance with the Nebraska Budget Act.

(B) Notice of the time and place of the hearing shall be published at least 5 days prior to the date set for hearing in a newspaper of general circulation within the municipality. The published notice shall set forth:

(1) The time and place of the hearing;

(2) The amount in dollars of additional or reduced money required and for what purpose;

(3) A statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year to meet the need for additional money in that manner;

(4) A copy of the summary of the originally adopted budget previously published; and

(5) A copy of the summary of the proposed revised budget.

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

(D) Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the Board of Trustees, the Board of Trustees shall file with the County Clerk/Treasurer of the county or counties in which the Board of Trustees is located, and with the Auditor of Public Accounts, a copy of the revised budget, as adopted. The Board of Trustees may then issue warrants in payment for expenditures authorized by the adopted revised budget. The warrants shall be referred to as registered warrants and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

(E) Within 30 days after the adoption of the budget under Neb. RS 13-506, a Board of Trustees may, or within 30 days after notification of an error by the Auditor of Public Accounts, a Board of Trustees shall, correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than 1% or increase the amount required from property taxes. No public hearing shall be required for the correction. After

Bennet – Administration

correction, the Board of Trustees shall file a copy of the corrected budget with the County Clerk of the county or counties in which the Board of Trustees is located and with the Auditor of Public Accounts. The Board of Trustees may then issue warrants in payment for expenditures authorized by the budget.

(Neb. RS 13-511) (Ord. 2003-10.7, passed 10-20-2003)

TAX LEVIES

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

(A) The Board of Trustees has decided to certify to the County Clerk for collection 1 all-purpose levy required to be raised by taxation for all municipal purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits in Neb. RS 77-3442, the all-purpose levy shall not exceed the annual levy specified in Neb. RS 19-1309 to be levied upon the taxable valuation of all taxable property in the municipality.

(Neb. RS 19-1309)

(B) (1) The amount of the all-purpose levy shall be certified as a single amount for general fund purposes.

(Neb. RS 19-1312)

(2) The Board of Trustees shall allocate the amount raised by the all-purpose levy to the several departments of the municipality in its annual budget and appropriation ordinance, or in other legal manner, as the Board of Trustees deems wisest and best.

(Neb. RS 19-1310)

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

(Neb. RS 19-1311)

(D) Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the municipality may be made by the municipality in addition to the all-purpose levy.

(Neb. RS 19-1309) (Ord. 1999-7.22, passed 7-12-1999)

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

(A) Property tax levies for the support of the village for fiscal years beginning on or after 7-1-1998, shall be limited to the amounts set forth in this division (A), except as provided in division (C). The village may levy a maximum levy of \$0.45 per \$100 of taxable valuation of property subject to the levy plus an additional \$0.05 per \$100 of taxable valuation to provide financing for the village's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. RS 51-201, museum pursuant to Neb. RS 51-501, visiting community nurse, home health nurse, or home health agency pursuant to Neb. RS 71-1637, or statue, memorial, or monument pursuant to Neb. RS 80-202. Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against the village which require or obligate the village to pay the judgment, to the extent the judgment is not paid by liability insurance coverage of the village, for preexisting lease-purchase contracts approved prior to 7-1-1998, for bonded indebtedness approved according to law and

Finance and Revenue

secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this division (A). The limitations on tax levies provided in this division (A) are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this division (A) are those provided by or authorized by this section. Tax levies in excess of the limitations in this section shall be considered unauthorized levies under Neb. RS 77-1606 unless approved under division (C). (Neb. RS 77-3442)

(B) (1) All city airport authorities established under the Cities Airport Authorities Act, and community redevelopment authorities established under the Community Development Law may be allocated property taxes as authorized by law which are authorized by the village and are counted in the municipal levy limit provided by division (A), except that the limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to 7-1-1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport. The Board of Trustees shall review and approve or disapprove the levy request of the political subdivisions subject to this division (B). The Board of Trustees may approve all or a portion of the levy request and may approve a levy request that would allow a levy greater than that permitted by law. The levy allocated by the village may be exceeded as provided in division (C).

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

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

1. Adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions; and

2. Forward a copy of the resolution to the Chairperson of the Board of Trustees of each of its political subdivisions.

(b) No final levy allocation shall be changed after September 1 except by agreement between both the Board of Trustees and the Board of Trustees of the political subdivision whose final levy allocation is at issue. (Neb. RS 77-3443)

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

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

(a) By passing a resolution calling for exceeding the limits by a vote of at least 2/3 of the members of the Board of Trustees and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the village; or

Bennet – Administration

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

(3) The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in division (A) and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than 5 years. Any resolution or petition calling for a special election shall be filed with the County Clerk or Election Commissioner no later than 30 days prior to the date of the election, and the time of publication and providing a copy of the notice of election required in Neb. RS 32-802 shall be no later than 20 days prior to the election.

(4) The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition. The election shall be held pursuant to the Election Act. For petitions filed with the County Clerk or Election Commissioner on or after 5-1-1998, the petition shall be in the form as provided in Neb. RS 32-628 through 32-631.

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

(6) The Board of Trustees may pass no more than 1 resolution calling for an election pursuant to this division (C) during any one calendar year. Only 1 election may be held in any 1 calendar year pursuant to a petition initiated under this division (C). The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the language specified in Neb. RS 77-3444.

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

(8) In lieu of the election procedures in this division (C), the village may approve a levy in excess of the limits in division (A) for a period of 1 year at a meeting of the residents of the village, called after notice is published in a newspaper of general circulation in the village at least 20 days prior to the meeting. At least 10% of the registered voters residing in the village shall constitute a quorum for purposes of taking action to exceed the limits. If a majority of the registered voters present at the meeting vote in favor of exceeding the limits, a copy of the record of that action shall be forwarded to the County Board prior to October 10 and the County Board shall authorize a levy as approved by the residents for the year. If a majority of the registered voters present at the meeting vote against exceeding the limits, the limit shall not be exceeded and the village shall have no power to call for an election under this division (C).

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

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

Finance and Revenue

1. By passing a resolution calling for the rescission or modification by a vote of at least 2/3 of the members of the Board of Trustees and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the village; or

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

(c) The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either the excess levy authority will be rescinded or the excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of the modification shall be stated. The modification shall not have a duration greater than 5 years. The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition, and the time of publication and providing a copy of the notice of election required in Neb. RS 32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act. (Neb. RS 77-3444) (Ord. 2000-7.5, passed 7-10-2000)

Statutory Reference:

Similar Provisions, See Neb. RS 77-3442 through 77-3444

§ 34.62 PROPERTY TAX; CERTIFICATION OF AMOUNT.

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

(Neb. RS 17-702) (Ord. 1999-7.19, passed 7-12-1999)

§ 34.63 PROPERTY TAX LEVY AND REQUEST; AUTHORITY TO SET.

(A) (1) 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. RS 77-1601 unless the Board of Trustees passes by a majority vote a resolution or ordinance setting the tax request at a different amount.

(2) The resolution or ordinance shall only be passed after a special public hearing called for the purpose is held and after notice is published in a newspaper of general circulation in the area of the municipality at least 5 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;

Bennet – Administration

(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.

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

(C) Any tax levy which is not in compliance with this section and Neb. RS 77-1601 shall be construed as an unauthorized levy under Neb. RS 77-1606.
(Neb. RS 77-1601.02) (Ord. 2000-7.4, passed 7-10-2000)

Statutory Reference:

Similar Provisions, See Neb. RS 77-1601.02

§ 34.64 MOTOR VEHICLE TAX.

The Board of Trustees may levy a tax on all motor vehicles owned or used in the village, which tax shall be paid to the County Treasurer of the county in which the village is located when the registration fees as provided in Neb. RS 60-329 through 60-339 are paid. The taxes shall be credited by the County Treasurer to the road fund of the village. The funds shall be used by the village for constructing, resurfacing, maintaining, or improving streets, roads alleys, public ways, or parts thereof or for the amortization of bonded indebtedness when created for the purposes.
(Neb. RS 18-1214) (1994 Code, § 1-824)

CHAPTER 35: SALES AND USE TAX

Sections:

35.01	Sales and Use Tax Imposed
35.02	Administration of Tax
35.03	Effective Date
35.04	Deposit of Proceeds
35.05	Governing Provisions; Nebraska Revenue Act of 1967
35.06	Certified Map to Tax Commissioner
35.07	Certification to Tax Commissioner
35.08	Collection of Tax

§ 35.01 SALES AND USE TAX IMPOSED.

The voters of the Village of Bennet have approved the imposition of a sales and use tax at the primary election held within the Village on May 9, 2006. Now, pursuant to the Local Option Revenue Act (Neb. Rev. Stat. § 77-27, 142 *et seq.*), the Village of Bennet hereby imposes a sales and use tax of one percent (1%) upon the same transactions within the corporate limits of the Village of Bennet on which the State of Nebraska is authorized to impose a tax pursuant to the provisions of the Nebraska Revenue Act of 1967, as amended from time to time.
(Neb. RS 77-27,142) (Ord. No. 2006-5.6 § 1, passed 5-15-2006)

§ 35.02 ADMINISTRATION OF TAX.

The administration of the sales and use tax imposed by this Ordinance shall be by the Tax Commissioner in accordance with the Local Option Revenue Act (Neb. Rev. Stat. § 77-27, 142 *et seq.*).
(Neb. RS 77-27,143) (Ord. No. 2006-5.6 § 2, passed 5-15-2006)

§ 35.03 EFFECTIVE DATE.

The sales and use tax imposed by section 35.01 of this Chapter shall become effective on October 1, 2006.
(Neb. RS 77-27,143) (Ord. No. 2006-5.6 § 3, passed 5-15-2006)

Bennet – Administration

§ 35.04 DEPOSIT OF PROCEEDS.

Proceeds of the tax levied by the Village of Bennet under the provisions of Section 35.01 shall be deposited by the Village upon receipt thereof in its general fund.
(Neb. RS 77-27,146) (Ord. No. 2006-5.6 § 4, passed 5-15-2006)

§ 35.05 GOVERNING PROVISIONS; NEBRASKA REVENUE ACT OF 1967.

All relevant portions of the Nebraska Revenue Act of 1967, as amended from time to time, and not inconsistent with the provisions of the Local Option Revenue Act and this Chapter shall govern transactions, proceedings, and activities pursuant to any tax imposed under the provisions of the Local Option Revenue Act and this Chapter.
(Neb. RS 77-27,147) (Ord. No. 2006-5.6 § 5, passed 5-15-2006)

§ 35.06 CERTIFIED MAP TO TAX COMMISSIONER.

The Village Clerk shall deliver, or cause to be delivered, to the Tax Commissioner of the State of Nebraska a certified map of the Village of Bennet, clearly showing the boundaries thereof upon the passage of this Chapter and shall thereafter, from time to time, deliver, or cause to be delivered, to the Tax Commissioner of the State of Nebraska a certified map of the Village of Bennet showing any additional areas which may become a part of the Village of Bennet after the effective date of this Chapter.
(Neb. RS 77-27,143) (Ord. No. 2006-5.6 § 6, passed 5-15-2006)

§ 35.07 CERTIFICATION TO TAX COMMISSIONER.

The Village Clerk of the Village of Bennet shall deliver a certified copy of this Ordinance and any amendments or changes thereto to the Tax Commissioner in accordance with such rules and regulations as the Tax Commissioner may prescribe.
(Neb. RS 77-27,143) (Ord. No. 2006-5.6 § 7, passed 5-15-2006)

§ 35.08 COLLECTION OF TAX.

Pursuant to the provisions of the Local Option Revenue Act, the State Tax Commissioner shall collect the tax imposed by Section 35.01 concurrently with collection of a state tax in the same manner as the state tax is collected. The Tax Commissioner shall remit the monthly proceeds of the tax to the Village of Bennet after deducting the amount of refunds made and three percent (3%) of the remainder to be credited to the Municipal Equalization Fund, or such other use as may be directed by state law.
(Neb. RS 77-27,144) (Ord. No. 2006-5.6 § 8, passed 5-15-2006)

TITLE V: PUBLIC WORKS

Chapters:

- 50. GENERAL PROVISIONS**
- 51. GARBAGE AND REFUSE**
- 52. WATER**
- 53. SEWERS**

Bennet – Public Works

CHAPTER 50: GENERAL PROVISIONS

Sections:

50.01	Denial of Service; when Prohibited
50.02	Utility Bills; Collection
50.03	Discontinuance of Service; Notice Procedure
50.04	Diversion of Services, Meter Tampering, Unauthorized Reconnection, Prohibited; Evidence
50.05	Diversion of Services; Civil Action
50.06	Lien
50.07	Connection Fees; Generally

§ 50.01 DENIAL OF SERVICE; WHEN PROHIBITED.

No applicant for the services of a public or private utility company furnishing water, natural gas, or electricity at retail in this municipality 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. RS 70-1601)

§ 50.02 UTILITY BILLS; COLLECTION.

Charges for utility services provided by or through the village shall be billed jointly on a monthly basis. The Utilities Superintendent shall read, or cause to be read, water meters during the last week of each month. Utility bills shall be mailed on or about the first (1st) day of each month, and shall be due and payable by the fifteenth (15th) day of each month. Bills not paid by the fifteenth (15th) day of each month shall be deemed to be delinquent and a monthly "late fee" equal to 10% of the amount due shall be charged against each such delinquent account. Upon being deemed to be delinquent, as herein provided, the village may discontinue service pursuant to § 50.03. Once discontinued, service shall not be recommenced except upon payment in full of all delinquent charges and late fees and upon further payment of a reconnection fee in the amount of twenty-five (\$25) dollars. The village may also take any action authorized by law to effect collection of the delinquent charges and late fees.
(Ord. 2001-11.1, passed 11-12-2001, Am. Ord. 2006-10.2 § 1, passed 10-16-2006)

§ 50.03 DISCONTINUANCE OF SERVICE; NOTICE PROCEDURE.

(A) The municipality shall have the right to discontinue utility services and remove its properties if the charges for the services are not paid within 7 days after the date that the charges become delinquent. Before any termination, the municipality shall first give notice by first-class mail or in person to any domestic subscriber whose service is proposed to be terminated. If notice is given by first-class mail, the mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least 7 days, weekends and holidays excluded, after notice is sent or given. As to any subscriber who has previously been identified as a welfare recipient to the municipality by the Department of Health and Human Services, the notice shall be by certified mail, and notice of the proposed termination shall be given to the Department of Health and Human Services.

Bennet – Public Works

(B) Prior to the discontinuance of service to any domestic subscriber by the municipality, the domestic subscriber, upon request, shall be provided a conference with the Board of Trustees. The Board of Trustees has established procedures to resolve utility bills when a conference is requested by a domestic subscriber. These procedures, 3 copies of which are on file in the office of the Village Clerk/Treasurer, are hereby incorporated by reference in addition to any amendments thereto and are made a part of this section as though set out in full. A copy of the procedures shall be furnished upon the request of any domestic subscriber. The Board of Trustees shall notify the domestic subscriber of the time, place, and date scheduled for such conference.

(C) This section shall not apply to any disconnections or interruptions of services made necessary by the municipality for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.
(Ord. 1997-8.14, passed 8-11-1997)

Statutory reference:

Utility Discontinuance Regulated, See Neb. RS 70-1602, et seq.

§ 50.04 DIVERSION OF SERVICES, METER TAMPERING, UNAUTHORIZED RECONNECTION, PROHIBITED; EVIDENCE.

(A) It is an offense for any person:

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

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

(3) To reconnect water service without the knowledge and consent of the municipality if the service has been disconnected pursuant to Neb. RS 70-1601 to 70-1615 or § 50.03; or

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

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

(Neb. RS 28-515.02) (1994 Code, § 3-305) Penalty, See § 10.99

§ 50.05 DIVERSION OF SERVICES; CIVIL ACTION.

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

(B) (1) The municipality may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts bypassing, tampering, or unauthorized metering when the act results in damages to a municipal utility. The municipality may bring a civil action for

General Provisions

damages pursuant to this section against any person receiving the benefit of utility service through means of bypassing, tampering, or unauthorized metering.

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

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

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

(3) In addition to damage or loss under divisions (B)(2)(a) or (B)(2)(b), the municipality may recover all reasonable expenses and costs incurred on account of the bypassing, tampering, or unauthorized metering including, but not limited to, disconnection, reconnection, service calls, equipment, costs of the suit, and reasonable attorneys' fees in cases within the scope of Neb. RS 25-1801.

(Neb. RS 25-21,276)

(C) (1) There shall be a rebuttable presumption that a tenant or occupant at any premises where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of the bypassing, tampering, or unauthorized metering if the tenant or occupant 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 was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.

(2) There shall be a rebuttable presumption that a customer at any premises where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of the 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.

(Neb. RS 25-21,277)

(D) The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws. The remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common law remedies.

(Neb. RS 25-21,278) (1994 Code, § 3-303)

Statutory reference:

Definitions Related to Diversion of Utility Services, See Neb. RS 86-331.01

§ 50.06 LIEN.

In addition to all other remedies, if a customer shall for any reason remain indebted to the municipality for utilities service furnished, the amount due, together with any rents and charges in arrears, shall be considered a delinquent utility rent which is hereby declared to be a lien upon the real estate for which the same was furnished. The Village Clerk/Treasurer shall notify in writing, or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of the utilities rent. It shall be the duty of the Village Clerk/Treasurer to report to the Board of Trustees a list of all unpaid accounts due for utilities service together with a description of the premises served. The report shall be examined

Bennet – Public Works

and, if approved by the Board of Trustees, shall be certified by the Village Clerk/Treasurer to the County Clerk to be collected as a special tax in the manner provided by law.
(1994 Code, § 3-304)

Statutory reference:

Assessments Authorized, See Neb. RS 18-503

Lien Authorized for Water and Sewer Delinquency, See Neb. RS 17-538 and 17-925.01

§ 50.07 CONNECTION FEES; GENERALLY.

The Board of Trustees shall, by resolution, establish separate connection fees to be charged to anyone who makes application to connect to the municipal water system, the municipal sanitary sewer system, or both the municipal water and sanitary sewer system. The Board of Trustees may, by Resolution, establish fees to be charged against anyone who makes a request to disconnect from or reconnect to the municipal water system or to transfer the sewer and water service to another person or user. The resolutions shall be placed on file in the office of the Village Clerk/Treasurer and be available for public inspection during regular business hours. All the fees shall be payable to the Village of Bennet and shall be in addition to all other fees and costs charged by the village or incurred by the applicant for connection, reconnection, or disconnection to or from the municipal utility systems, or either of them.

(Ord. 1999-7.6, passed 9-15-1999)

CHAPTER 51: GARBAGE AND REFUSE

Section

51.01	Definitions
51.02	Prohibition
51.03	Dead Animals
51.04	Collection; Authority
51.05	Collection; Notice and Removal
51.06	Collection; Nuisance
51.07	Collection; Lien
51.08	Municipal Garbage Disposal Facility; User Fees

§ 51.01 DEFINITIONS.

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

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

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

WASTE. Cinders, ashes, plaster, brick, stone, sawdust, or sand.
(1994 Code, §§ 4-301 through 4-303)

§ 51.02 PROHIBITION.

It shall be unlawful for any person to keep in, on, or about any dwelling, building, or premise, or any other place in the municipality, decayed vegetable or animal substance, garbage, or refuse matter of any kind that may be injurious to the public health or offensive to the residents of the municipality unless the same is kept in receptacles not exceeding a 30-gallon capacity and as nearly air-tight as may be practical. It shall be unlawful to throw or sweep into the streets, alleys, parks, or other public grounds any dirt, paper, nails, pieces of glass, refuse, waste, or rubbish of any kind. No person may permit garbage, rubbish, waste, or refuse to collect and all persons shall remove the same from their property within 24 hours after being notified to do so by the Board of Health. Any person having garbage, rubbish, waste, or refuse that is subject to decay or fermentation within a short period of time shall be required to place the same in a standard garbage can with a tight cover, or a durable plastic container that is securely tied at its opening. All persons shall have the contents of their garbage cans removed at least once a week.
(Neb. RS 19-2106) (1994 Code, § 4-304) Penalty, See § 10.99

Bennet – Public Works

§ 51.03 DEAD ANIMALS.

All dead animals shall be immediately removed and buried by the owner of such animals; and if the owner of the animal cannot be found within 2 hours after discovering the same, then the animal shall be removed by and at the expense of the municipality. Dead animals shall not be buried within the corporate limits of the municipality, nor in or above the course of ground water that is used for drinking purposes by the municipality or its inhabitants.
(Neb. RS 17-207) (1994 Code, § 4-305)

§ 51.04 COLLECTION; AUTHORITY.

The Board of Trustees may provide for the collection and removal of garbage or refuse found upon any lot or land within its corporate roads, or alleys abutting such lot or land which constitutes a public nuisance. The municipality may require the owner, duly authorized agent, or tenant of such lot or land to remove the garbage or refuse from such lot or land and streets, roads, or alleys.
(Neb. RS 18-1303) (1994 Code, § 4-306)

§ 51.05 COLLECTION; NOTICE AND REMOVAL.

Notice that removal of garbage or refuse is necessary shall be given to each owner or owner's duly authorized agent and to the tenant, if any. The notice shall be provided by personal service or by certified mail. After providing the notice, the municipality through its proper offices shall, in addition to other proper remedies, remove the garbage or refuse, or cause it to be removed, from the lot or land and streets, roads, or alleys.
(Neb. RS 18-1303) (1994 Code, § 4-307)

§ 51.06 COLLECTION; NUISANCE.

If the Chairperson declares that the accumulation of such garbage or refuse upon any lot or land constitutes an immediate nuisance and hazard to public health and safety, the municipality shall remove the garbage or refuse, or cause it to be removed, from such lot or land within 48 hours after notice by personal service or following receipt of a certified letter in accordance with § 51.05 if such garbage or refuse has not been removed.
(Neb. RS 18-1303) (1994 Code, § 4-308)

§ 51.07 COLLECTION; LIEN.

Whenever the municipality removes any garbage or refuse, or causes it to be removed, from any lot or land pursuant to this chapter, it shall, after a hearing conducted by the Board of Trustees, assess the cost of the removal against such lot or land.
(Neb. RS 18-1303) (1994 Code, § 4-309)

§ 51.08 MUNICIPAL GARBAGE DISPOSAL FACILITY; USER FEES.

(A) The fees for use of the garbage disposal facilities, garbage compactor and waste disposal area of the municipality by residents and non-residents of the municipality shall be established by resolution of the Board of Trustees and such resolution shall be placed on file in the office of the Village Clerk/Treasurer and be available for public inspection during regular business hours.

Garbage and Refuse

(B) The Village Clerk/Treasurer shall be charged with the duty to bill and collect all such user fees in a timely manner.
(1994 Code, § 4-310) (Ord. 1998-4.3, passed 4-13-1998)

Bennet – Public Works

CHAPTER 52: WATER

Sections:

General Provisions

52.01 Definitions

Water Regulations

52.15 Consumer's Application
52.16 Service to Non-residents
52.17 Water Contract
52.18 Installation
52.19 Repairs and Maintenance
52.20 Fees and Collections
52.20.5 Separate Premises; Payment by Owner; Water Service Fee for each Separate Premise
52.21 Minimum Rates
52.22 Single Premise
52.23 Restricted Use
52.24 Fire Hydrants
52.25 Pollution
52.26 Mandatory Hook-up
52.27 Water Service Contracts
52.28 Inspection
52.29 Police Reports
52.30 Destruction of Property
52.31 Time
52.32 Backflow

Water Rates and Charges

52.45 Rates

GENERAL PROVISIONS

§ 52.01 DEFINITIONS.

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

MAIN. Any pipe other than a supply or service pipe that is used for the purpose of carrying water to, and dispersing the same in the municipality.

SUPPLY PIPE. Any pipe tapped into a main and extending from there to a point at or near the lot line of the consumer's premise where the shut-off, stop box, or curb cock is located.

Bennet – Public Works

SERVICE PIPE. Any pipe extending from the shut-off, stop box, or curb cock at or near the lot line to and beyond the property line of the consumer to the location on the premise where the water is to be dispersed.

SEPARATE PREMISE. More than 1 consumer procuring water from the same service or supply pipe. The second premise may be a separate dwelling, apartment, building, or structure used for a separate business.
(1994 Code, § 3-102)

WATER REGULATIONS

§ 52.15 CONSUMER'S APPLICATION.

Every person or persons desiring a supply of water must make application therefor to the Village Clerk/Treasurer. The Village Clerk/Treasurer may require any applicant to make a service deposit in such amount as has been set by the Board of Trustees and placed on file at the office of the Village Clerk/Treasurer. Water may not be supplied to any house or private service pipe except upon the order of the Utilities Superintendent.
(Neb. RS 17-537) (1994 Code, § 3-103)

§ 52.16 SERVICE TO NON-RESIDENTS.

The Department shall not supply water service to any person outside the corporate limits without special permission from the Board of Trustees; provided, the entire cost of laying mains, service pipe, and supply pipe shall be paid by the consumer. Nothing herein shall be construed to obligate the municipality to provide water service to non-residents.
(Neb. RS 19-2701) (1994 Code, § 3-104)

§ 52.17 WATER CONTRACT.

The municipality, through its Water Department, shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The municipality may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a municipal commercial main is now or may hereafter be laid and may also furnish water to persons whose premises are situated outside the corporate limits of the municipality, as and when, according to law, the Board of Trustees may see fit to do so. The rules, regulations, and water rates hereinafter named in this chapter, shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served. Without further formality, the making of application on the part of any applicant or the use or consumption of water service by present consumers thereof and the furnishing of water service to the consumer shall constitute a contract between the consumer and the municipality, to which the contract both parties are bound. If the consumer shall violate any of the provisions of the contract or any reasonable rules and regulations that the Board of Trustees may hereafter adopt, the Utilities Superintendent or his or her agent, may cut off or disconnect the water service from the building or premise or place of the violation. No further connection for water service to the building, premise, or place shall again be made except by order of the Utilities Superintendent or his or her agent.
(1994 Code, § 3-105)

Water

§ 52.18 INSTALLATION.

(A) *Procedure.* In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. After service pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of 24 hours or more, the Utilities Superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the consumer. All installations or repairs of pipes require an inspection by the Utilities Superintendent. The inspection shall be made when connections or repairs are completed and before the pipes are covered. It is the customer's responsibility to notify the 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 Utilities Superintendent; provided that the rules, regulations, and specifications have been reviewed and approved by the Board of Trustees.

(Neb. RS 17-537) (1994 Code, § 3-106)

(B) *Expense.* An applicant for water service shall accompany his or her application with a water permit and inspection fee in an amount set by resolution of the Board of Trustees and on file in the office of the Village Clerk/Treasurer. Upon the filing of the application and payment of the water permit and inspection fee, a permit will be issued to bring water service from the stop box, to be located at or near the property line, to and upon the applicant's premises. No person, except the Utilities Superintendent or his or her designated agent, shall tap the commercial mains of the municipality or insert ferrules therein. All costs and expense incident to the installation and connection of the water line from the existing commercial mains shall be borne by the applicant.

(Neb. RS 17-542) (1994 Code, § 3-107) (Ord. 1998-4.2, passed 4-13-1998) Penalty, See § 10.99

§ 52.19 REPAIRS AND MAINTENANCE.

The municipality shall repair or replace, as the case may be, all supply pipe between the commercial main and the stop box. The customer at his or her own expense shall replace and keep in repair all service pipe from the stop box to the place of dispersement. When leaks occur in service pipes, the Utilities Superintendent shall shut off water service until the leak is repaired at the expense of the customer to the satisfaction of the Utilities Superintendent. All water meters shall be kept in repair by the municipality at the expense of the municipality. When meters are worn out, they shall be replaced and reset by the municipality at the expense of the municipality; provided, that 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 Utilities Superintendent shall bill and collect from the customer the cost of the 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. All meters shall be tested at the customer's request at the expense of the customer any reasonable number of times; provided, that if the test shows the water meter to be running 2% or more fast, the expense of the test shall be borne by the municipality. The municipality reserves the right to test any water service meter at any time, and if the meter is found to be beyond repair, the municipality shall always have the right to place a new meter on the customer's water service fixtures at municipal 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, that if no such basis for comparison exists, the customer shall be charged

Bennet – Public Works

such amount as may be reasonably fixed by the Utilities Superintendent. It shall be unlawful for any person to tamper with any water meter, or by any means or device to divert water from the service pipe so that the same shall not pass through the meter, or while passing through the meter, to cause the same to register inaccurately.

(Neb. RS 17-537) (1994 Code, § 3-108) Penalty, See § 10.99

§ 52.20 FEES AND COLLECTIONS.

The Board of Trustees has the power and authority to fix the rates to be paid by the water consumers for the use of water from the Water Department. All fees shall be on file for public inspection at the office of the Village Clerk/Treasurer. No flat rates for water service shall be quoted or allowed by the Board of Trustees. No water service shall be furnished to any customer at a rate that is different from other customers of the same class or type. Persons, firms, or corporations desiring to use water temporarily shall pay such rates as the Utilities Superintendent, with the approval of the Board of Trustees, shall set. Without respect to schedule of rates for other customers, the Board of Trustees may enter into special contracts with large consumers of water, but never at a rate less than the cost of production; provided, that the contract shall always provide that the large consumer shall always pay the minimum rate for other customers and the contract shall be made on the basis of water consumed in excess of the minimum. A meter shall always be attached to the water service of the contract consumer and read as in the case of other classes of water consumers. Water service furnished to the other departments of the municipality and to other governmental subdivisions of the state shall be measured and billed for at such rates as the Board of Trustees shall set from time to time without respect to the schedule of rates on file at the office of the Village Clerk/Treasurer, but never at rates that do not cover the cost of providing water. One bill only shall be computed for each meter.

(Neb. RS 17-540) (1994 Code, § 3-109) (Ord. 2000-1.1, passed 3-13-2000)

§ 52.20.5 SEPARATE PREMISES; PAYMENT BY OWNER; WATER SERVICE FEE FOR EACH SEPARATE PREMISE.

Whenever water service is supplied to separate premises as defined in Section 52.01 of the Code of Bennet, the owner of the premises shall pay for the total amount of water used by all consumers receiving water through the same supply or service pipe and measured by the same meter, at the applicable water usage rate as established from time to time by the Board of Trustees. In addition, the owner shall pay one applicable minimum water rate per month plus an additional minimum water service fee of ten (\$10) dollars per month for each additional separate premises receiving water through the same supply or service pipe and measured by the same meter.

(Ord. 2006-10.2 § 2, passed 10-16-2006)

§ 52.21 MINIMUM RATES.

All water consumers shall be liable for the minimum rate provided by ordinance unless and until the consumer shall, by written order, direct the Utilities Superintendent to shut off the water at the stop box, in which case he or she shall not be liable thereafter for water rental until the water is turned on again.

(Neb. RS 17-542) (1994 Code, § 3-110)

Water

§ 52.22 SINGLE PREMISE.

No consumer shall supply water to other families, or allow them to take water from his or her premise, nor after water is supplied into a building shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premise for alteration, extension, or attachment without the written permission of the Utilities Superintendent. It shall further be unlawful for any person to tamper with any water meter or by means of any contrivance or device to divert the water from the service pipe so that the water will not pass through the meter or while passing through the meter to cause the meter to register inaccurately.
(Neb. RS 17-537) (1994 Code, § 3-111) Penalty, See § 10.99

§ 52.23 RESTRICTED USE.

The Board of Trustees or the Utilities Superintendent may order a reduction in the use of water or shut off the water on any premise in the event of a water shortage due to fire or other good and sufficient cause. The municipality shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the municipality has no control.
(Neb. RS 17-537) (1994 Code, § 3-112)

§ 52.24 FIRE HYDRANTS.

All hydrants for the purpose of extinguishing fires are hereby declared to be public hydrants, and it shall be unlawful for any person other than members of the Fire Department under the orders of the Fire Chief, or the Assistant Fire Chief, or members of the Water Department to open or attempt to open any of the hydrants and draw water from the same, or in any manner to interfere with the hydrants.
(1994 Code, § 3-113) Penalty, See § 10.99

§ 52.25 POLLUTION.

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Water Department.
(Neb. RS 17-536) (1994 Code, § 3-114) Penalty, See § 10.99

§ 52.26 MANDATORY HOOK-UP.

All persons within 300 feet of a water main shall be required, upon notice by the Board of Trustees, to hook-up with the municipal water system.
(Neb. RS 17-539) (1994 Code, § 3-115)

§ 52.27 WATER SERVICE CONTRACTS.

Contracts for water service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall move from the premise where service is furnished, or if the premise is destroyed by fire or other casualty, he or she shall at once inform the Utilities Superintendent who shall cause the water service to be shut off at the premise. If the consumer should fail to give such notice, he or she shall be

Bennet – Public Works

charged for all water used on the premise until the Utilities Superintendent is otherwise advised of such circumstances.
(Neb. RS 17-537) (1994 Code, § 3-116)

§ 52.28 INSPECTION.

The Utilities Superintendent, or his or her duly authorized agents, shall have free access, at any reasonable time, to all parts of each premise 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. RS 17-537) (1994 Code, § 3-117)

§ 52.29 POLICE REPORTS.

It shall be the duty of the Village Police to report to the Utilities Superintendent all cases of leakage and waste in the use of water and all violations of the municipal code relating to the Water Department. They shall have the additional duty of enforcing the observance of all such regulations.
(1994 Code, § 3-118)

§ 52.30 DESTRUCTION OF PROPERTY.

It shall be unlawful for any person to willfully or carelessly break, injure, or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the Water Department. No person may deposit anything in a stop box or commit any act tending to obstruct or impair the intended use of any of the above mentioned property without the written permission of the Utilities Superintendent.
(1994 Code, § 3-119) Penalty, See § 10.99

§ 52.31 TIME.

All taps or plumbing work done on or to the municipal water system shall be done between the hours of 8:00 a.m. and 6:00 p.m.
(Neb. RS 17-537) (1994 Code, § 3-120)

§ 52.32 BACKFLOW.

(A) *Devices required.*

(1) A customer of the Water Department may be required by the Utilities Superintendent to install and maintain a properly located backflow prevention device at his or her expense appropriate to the potential hazards set forth in Title 179, Nebraska Department of Health, and approved by the Utilities Superintendent.

(2) The customer shall make application to the Utilities Superintendent to install a required backflow prevention device on a form provided by the municipality. The application shall contain at a minimum the name and address of the applicant, the potential hazard, the type of protection required and the type of backflow device to be installed including brand and model number.

Water

(3) The Utilities Superintendent shall approve or disapprove the application based on his or her opinion of whether the installation will protect the Water Distribution system from potential backflow and backsiphonage hazards.

(4) The installation of the device shall be subject to all other sections of this code dealing with installation of plumbing, including the use of a plumber licensed by the municipality if applicable.

(5) The customer shall also certify to the municipality at least 1 time annually that the backflow prevention device has been tested by a Nebraska Department of Health Grade VI Certified Water Operator if the device is equipped with a test port. The certification shall be made on a form available at the office of the Village Clerk/Treasurer.

(6) Any decision of the Utilities Superintendent may be appealed to the Board of Trustees.
(1994 Code, § 3-121)

(B) *Hazards; customer assessment.*

(1) No customer or other person shall cause, allow, or create any physical connection between the water distribution system and any pipes, pumps, hydrants, tanks, steam condensate returns, engine jackets, heat exchangers, other water supplies or any other connection whereby potentially unsafe or contaminating materials may be discharged or drawn into the water distribution system.

(2) At least 1 time every 5 years, customers of the Municipal Water Distribution and Supply System shall be required to assess and report potential backflow and backsiphonage hazards to the municipality on a form supplied by the municipality to the customer. The customer shall take any steps necessary for protection of public health and safety as determined by the Utilities Superintendent.
(1994 Code, § 3-122)

WATER RATES AND CHARGES

§ 52.45 RATES.

All water consumers shall pay the following rates for the use of water from the Water Department:

(A) *Residential rate.*

(1) The residential rate shall be applicable when the building, premises or place receiving water service is located within the corporate limits of the village and is used for dwelling or family living purposes.

(2) The residential water rate shall be a minimum of \$28.50 per calendar month plus \$5.60 per 1,000 gallons of water or any portion thereof used during the month.

(B) *Non-residential rate.*

Bennet – Public Works

(1) The non-residential rate shall be applicable when the building, premises or place receiving water service is located within the corporate limits of the village and is used for commercial, industrial, institutional or other non-residential purposes.

(2) The non-residential water rate shall be a minimum of \$28.50 per calendar month plus \$5.60 per 1,000 gallons of water or any portion thereof used during the month.

(C) *Non-resident rate.*

(1) The non-resident rate shall be applicable to all buildings, premises or places receiving water service from the village which are located outside the corporate limits of the village.

(2) The non-resident water rate shall be a minimum of \$34.50 per calendar month plus \$5.60 per 1,000 gallons or any portion thereof used during the month.

(D) *Bulk rate.*

(1) The bulk rate shall be applicable to those persons or entities who occasionally purchase water from the village after obtaining a permit to do so from the Utilities Superintendent or Village Clerk/Treasurer.

(2) The bulk rate shall be \$1.75 per 100 gallons or any portion thereof so purchased.

(Ord. 2000-1.2, passed 1-10-1999, Am. Ord. 2008-10.1, passed 12-8-2008)

CHAPTER 53: SEWERS

Sections:

General Provisions

- 53.01 Definitions
- 53.02 Application for Permit
- 53.03 Sewer Contract
- 53.04 Compliance; Inspections
- 53.05 Violation; Notice and Liability
- 53.06 Precedence

Sewer Regulations

- 53.20 Public Sewers Required
- 53.21 Private Sewage Disposal System
- 53.22 Building Sewer Installation
- 53.23 Prohibited Discharges; Stormwater, Surface Water, Groundwater, Cooling Water, and Process Water
- 53.24 Hazardous and Prohibited Discharges
- 53.25 Grease, Oil, and Sand Interceptors; when Required
- 53.26 Preliminary Treatment or Flow Equalizing Facilities; Maintenance by Owner
- 53.27 Control Manholes/Sampling Stations
- 53.28 Destruction of Property
- 53.29 Capping of Building Sewers

Rates and Charges

- 53.40 User Charge System; Purpose
- 53.41 Operation and Maintenance Fund; Accounts
- 53.42 User Charge System; Rate Setting
- 53.43 Surcharges
- 53.44 User Charge Review
- 53.45 User Charge; Notification
- 53.46 Sewer Rates

- 53.99 Penalty

GENERAL PROVISIONS

§ 53.01 DEFINITIONS.

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

Bennet – Public Works

BOD (denoting biochemical oxygen demand). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20° C., expressed in milligrams per liter.

BUILDING DRAIN. The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 5 feet (1.5 meters) outside the inner face of the building wall.

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal.

COMBINED SEWER. A sewer receiving both surface runoff and sewage.

GARBAGE. Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

INDUSTRIAL WASTES. The liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake, or other of body surface or groundwater.

NORMAL DOMESTIC WASTEWATER. Wastewater that has a BOD concentration of not more than 300 mg/l and a suspended solids concentration of not more than 350 mg/l.

OPERATION AND MAINTENANCE. All expenditures during the useful life of the treatment works for materials, labor, utilities, and other items which are necessary for managing and maintaining the sewage works to achieve the capacity and performance for which such works were designated and constructed.

PERSON. Any individual, firm, company, association, society, corporation, or group.

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

PUBLIC SEWER. A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

REPLACEMENT. Expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term “operation and maintenance” includes replacement.

RESIDENTIAL CONTRIBUTOR. Any contributor to the village’s treatment works whose lot, parcel of real estate, or building is used for domestic dwelling purposes only.

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

Sewer

SEWAGE. A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

SEWAGE TREATMENT PLANT. Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS. All facilities for collecting, pumping, treating and disposing of sewage.

SEWER. A pipe or conduit for carrying sewage.

SLUG. Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than 5 times the average 24-hour concentration or flows during normal operation.

SS (denoting suspended solids). Solids that either float on the surface of or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.

STORM DRAIN (sometimes termed storm sewer). A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUPERINTENDENT. The Utilities Superintendent of the village or his or her authorized deputy, agent, or representative.

TREATMENT WORKS. Any devices and systems for the storage, treatment, recycling and reclamation of municipal sewage, domestic sewage, or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power, and other equipment and their appurtenances; extensions improvement, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment (including land for composting sludge, temporary storage of compost, and the land used for the storage of treated wastewater in land treatment systems before land application); or any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.

USEFUL LIFE. The estimated period during which a treatment works will be operated.

USER CHARGE. That portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance, and replacement of the wastewater treatment works.

WATER METER. A water volume measuring and recording device, furnished and/or installed by the village or furnished and/or installed by a user and approved by the village.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently.
(1994 Code, § 3-202)

§ 53.02 APPLICATION FOR PERMIT.

Any person wishing to connect with the sewer system shall make an application therefor to the Village Clerk/Treasurer. The Village Clerk/Treasurer may require any applicant to make a service deposit in such amount as has been set by the Board of Trustees and placed on file in the office of the Village Clerk/Treasurer. Sewer service may not be supplied to any house or building except upon the written order of the Superintendent. The Department shall not supply sewer service to any person outside the corporate limits without special permission from the Board of Trustees; provided, that the entire cost of pipe and other installation charges shall be paid by such consumers. Nothing herein shall be construed to obligate the municipality to provide sewer service to non-residents.

(Neb. RS 17-149, 18-503) (1994 Code, § 3-203)

§ 53.03 SEWER CONTRACT.

The municipality through the Sewer Department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The municipality may also furnish sewer service to persons whose premises are situated outside the corporate limits of the municipality, as and when, according to law, the Board of Trustees may see fit to do so. The rules, regulations, and sewer rental rates hereinafter named in this chapter, shall be considered a part of every application hereafter made for sewer service and shall be considered a part of the contract between every customer now or hereafter served. Without further formality, the making of the application on the part of any applicant or the use of sewer service by present customers thereof shall constitute a contract between the customer and the municipality to which the contract both parties are bound. If the customer shall violate any of the provisions of the contract or any reasonable rules and regulations that the Board of Trustees may hereafter adopt, the Superintendent, or his or her agent, may cut off or disconnect the sewer service from the building or premise of such violation. No further connection for sewer service to the building or premise shall again be made save or except by order of the Superintendent or his or her agent.

(Neb. RS 17-901, 17-902, 18-503) (1994 Code, § 3-204)

§ 53.04 COMPLIANCE; INSPECTIONS.

(A) *Generally.* The Superintendent and other duly authorized employees of the village bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The Superintendent or his or her representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(1994 Code, § 3-234)

(B) *Injury liability.* While performing the necessary work on private properties referred to in division (A), the Superintendent or duly authorized employees of the village shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the village employees and the village shall indemnify the company against loss or damage to its property by employees and against liability claims and demands for personal injury or property damage assessed against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 53.27(A).

(1994 Code, § 3-235)

Sewer

(C) *Easements.* The Superintendent and other duly authorized employees of the village bearing proper credentials and identification shall be permitted to enter all private properties through which the village holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(1994 Code, § 3-236)

§ 53.05 VIOLATION; NOTICE AND LIABILITY.

(A) Any person found to be violating any provision of this chapter except § 53.28 shall be served by the village with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(B) Any person violating any of the provisions of this chapter shall become liable to the village for any expense, loss, or damage occasioned the village by reason of such violation.

(1994 Code, § 3-237)

§ 53.06 PRECEDENCE.

This chapter takes precedence over any terms or conditions of agreements, or contracts between the village and contributors to the treatment works that are inconsistent with the requirements of Section 204(b)(1)(A) of the Clean Water Act and its corresponding regulations.

(1994 Code, § 3-245)

SEWER REGULATIONS

§ 53.20 PUBLIC SEWERS REQUIRED.

(A) *Unlawful deposit of wastes.* It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the village or in any area under the jurisdiction of the village any human or animal excrement, garbage, or other objectionable waste.

(1994 Code, § 3-205)

(B) *Unlawful discharge of untreated sewage.* It shall be unlawful to discharge to any natural outlet within the village or in any area under the jurisdiction of the village any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(1994 Code, § 3-206)

(C) *Cesspools, privies, and septic tanks prohibited.* Except as hereinafter provided, it shall be unlawful to construct or maintain within the village or in any area under the jurisdiction of the village any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(1994 Code, § 3-207)

Bennet – Public Works

(D) *Mandatory hook-up.* The owner of all houses, buildings, or properties 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 or combined sewer of the village is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within 60 days after date of official notice to do so, provided that said public sewer is within 100 feet of the property line and accessible to the owner.
(1994 Code, § 3-208) Penalty, See § 53.99

§ 53.21 PRIVATE SEWAGE DISPOSAL SYSTEM.

(A) *When applicable.*

(1) Where a public sanitary or combined sewer is not available under the provisions of § 53.20(D), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter.

(2) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in division (D), a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material. When a public sewer becomes available, the building sewer shall be connected to the sewer within 60 days and the private sewage disposal system shall be cleaned of sludge and filled with clean bankrun gravel or dirt.
(1994 Code, § 3-209)

(B) *Permit required; fee.* Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the village which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. A permit and inspection fee of \$100 shall be paid to the village at the time the application is filed.
(1994 Code, § 3-210)

(C) *Permit; when effective; inspections.* A permit for a private sewage disposal shall not become effective until the installation is completed to the satisfaction of the Superintendent. He or she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 72 hours of the receipt of notice by the Superintendent.
(1994 Code, § 3-211)

(D) *Specifications.* The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Environmental Quality of the State of Nebraska. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 20,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
(1994 Code, § 3-212)

(E) *Maintenance.* The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the village.
(1994 Code, § 3-213)

Sewer

(F) *Additional requirements.* No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the Department of Environmental Quality.
(1994 Code, § 3-214) Penalty, See § 53.99

§ 53.22 BUILDING SEWER INSTALLATION.

(A) *Permit required.* No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.
(1994 Code, § 3-215)

(B) *Classification; permit application; fee.* There shall be 2 classes of building sewer permits: for residential and commercial service; and for service to establishments producing industrial wastes. In either case, the owner or his or her agent shall make application on a special form furnished by the village. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee for each class of building sewer permits shall be established by resolution of the Board of Trustees and maintained on file in the office of the Village Clerk/Treasurer. The applicable building sewer permit and inspection fee shall be paid to the village at the time of filing the application.
(1994 Code, § 3-216)

(C) *Expense.* All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the village from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
(1994 Code, § 3-217)

(D) *Single premise.* A separate and independent building sewer shall be provided for every building except where 1 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.
(1994 Code, § 3-218)

(E) *Use of existing sewers.* Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent to meet all requirements of this chapter.
(1994 Code, § 3-219)

(F) *Construction codes.*

(1) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the village. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(2) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

Bennet – Public Works

(3) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the village or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

(1994 Code, § 3-220)

(G) *Unlawful connection.* 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.

(1994 Code, § 3-221)

(H) *Inspections.* The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his or her representative.

(1994 Code, § 3-222)

(I) *Excavations.* All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Superintendent.

(1994 Code, § 3-223) (Ord. 1998-4.2, passed 4-13-1998) Penalty, See § 53.99

§ 53.23 PROHIBITED DISCHARGES; STORMWATER, SURFACE WATER, GROUNDWATER, COOLING WATER, AND PROCESS WATER.

(A) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

(B) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent to a storm sewer, combined sewer, or natural outlet.

(1994 Code, § 3-224) Penalty, See § 53.99

§ 53.24 HAZARDOUS AND PROHIBITED DISCHARGES.

(A) *Flammable, toxic, corrosive, and obstructive substances; preliminary treatment.*

(1) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(a) Any gasoline, benzene, naphta, fuel oil, or other flammable or explosive liquid, solid, or gas.

(b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere

Sewer

with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of 2 mg/l as CN in the wastes as discharged to the public sewer.

(c) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, mild containers, and the like, either whole or ground by garbage grinders.

(e) Any waters or wastes having a 5-day BOD greater than 300 parts per million by weight, or containing more than 350 parts per million by weight of suspended solids, or having an average daily flow greater than 2% of the average sewage flow of the village shall be subject to the review of the Superintendent.

(2) Where necessary in the opinion of the Superintendent, the owner shall provide, at his or her expense, such preliminary treatment as may be necessary to reduce the biochemical oxygen demand to 300 parts per million by weight, or reduce the suspended solids to 350 parts per million by weight, or control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until the approvals are obtained in writing.
(1994 Code, § 3-225)

(B) *Specific prohibitions as determined by Superintendent.* No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his or her opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(1) Any liquid or vapor having a temperature higher than 150° F. (65° C.)

(2) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32° and 150° F.

(3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.

(4) Any waters or wastes containing strong acid, iron, pickling wastes, or concentrated plating solutions whether neutralized or not.

Bennet – Public Works

(5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the state for such materials.

(6) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the state as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

(7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the state in compliance with applicable state or federal regulations.

(8) Any waters or wastes having a pH in excess of 11.

(9) Materials which exert or cause:

(a) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).

(b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(c) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(d) Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.

(10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
(1994 Code, § 3-226)

(C) *Rejection, pretreatment, control of discharge, or use fee surcharge.*

(1) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in division (B), and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the Superintendent may:

(a) Reject the wastes;

(b) Require pretreatment to an acceptable condition for discharge to the public sewers;

(c) Require control over the quantities and rates of discharge; and/or

(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of division (D).

Sewer

(2) If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the State Department of Environmental Quality and subject to the requirements of all applicable codes, ordinances and laws.
(1994 Code, § 3-227)

(D) *Special exceptions permitted; use fee surcharge.* No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the village and any industrial concern whereby an industrial waste of unusual strength of character may be accepted by the village for treatment, subject to payment therefore by the industrial concern.
(1994 Code, § 3-232) Penalty, See § 53.99

§ 53.25 GREASE, OIL, AND SAND INTERCEPTORS; WHEN REQUIRED.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent and shall be located as to be readily and easily accessible for cleaning and inspection.
(1994 Code, § 3-228)

§ 53.26 PRELIMINARY TREATMENT OR FLOW EQUALIZING FACILITIES; MAINTENANCE BY OWNER.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.
(1994 Code, § 3-229)

§ 53.27 CONTROL MANHOLES/SAMPLING STATIONS.

(A) *When required; installation and maintenance.* When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. The manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.
(1994 Code, § 3-230)

(B) *Method.* All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premise is appropriate or whether a grab

Bennet – Public Works

sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)
(1994 Code, § 3-231)

§ 53.28 DESTRUCTION OF PROPERTY.

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of criminal mischief.

(1994 Code, § 3-233) Penalty, See § 53.99

§ 53.29 CAPPING OF BUILDING SEWERS.

(A) In the event that any building which has a building drain connected by a building sewer to the public sewer is destroyed, demolished, moved from the premises upon which the building was previously located, or the building sewer is disconnected, either temporarily or permanently, from the building drain, the owner of the building shall cause the building sewer to be capped, sealed or otherwise abandoned in accord with rules and regulations established by the Utilities Superintendent and approved by the Board of Trustees.

(B) The owner of any building who is required by division (A) to cap, seal or otherwise abandon, either temporarily or permanently, any building sewer, shall obtain a permit from the Village Clerk/Treasurer prior to commencement of the work. Applications for such permits shall be made to the Village Clerk/Treasurer on forms provided by the Clerk and the permit may be withheld until the deposit, bond or other guarantee of the timely performance of the work, as required by the applicable rules and regulations, is provided.

(C) The Utility Superintendent shall establish rules and regulations governing the capping, sealing, or otherwise abandoning of building sewers as provided in divisions (A) and (B). The rules and regulations shall become effective upon approval of the same by the Board of Trustees. The Village Clerk/Treasurer shall maintain a copy of the rules and regulations on file in the village office and make the same available for public inspection during regular business hours.
(Ord. 1996-7.1, passed 9-9-1996)

RATES AND CHARGES

§ 53.40 USER CHARGE SYSTEM; PURPOSE.

(A) It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the village to collect charges from all users who contribute wastewater to the village's treatment works. The proceeds of such charges so derived will be used for the purpose of operating, maintaining and retiring the debt for such public wastewater treatment works.

(B) The user charge system shall generate adequate annual revenues to pay costs of annual operation and maintenance including replacement and costs associated with debt retirement of bonded capital associated with financing the treatment works which the village may by ordinance

Sewer

designate to be paid by the user charge system. That portion of the total user charge which is designated for operation and maintenance including replacement of the treatment works shall be established by ordinance.
(1994 Code, § 3-239)

§ 53.41 OPERATION AND MAINTENANCE FUND; ACCOUNTS.

(A) That portion of the total user charge collected which is designated for operation and maintenance purposes as established by ordinance, shall be deposited in a separate nonlapsing fund known as the Operation and Maintenance Fund and will be kept in 2 primary accounts as follows:

(1) An account designated for the specific purpose of defraying operation and maintenance costs excluding replacement of the treatment works (operation and maintenance account).

(2) An account designated for the specific purpose of defraying replacement costs (replacement account).

(B) Fiscal year-end balances in the operation and maintenance account and the replacement account shall be carried over to the same accounts in the subsequent fiscal year, and shall be used for no other purposes than those designated for these accounts. Monies which have been transferred from other sources to meet temporary shortages in the Operation, Maintenance and Replacement Fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rates for operation, maintenance and replacement. The user charge rates shall be adjusted such that the transferred monies will be returned to their respective accounts within the fiscal year following the fiscal year in which the monies were borrowed.
(1994 Code, § 3-240)

§ 53.42 USER CHARGE SYSTEM; RATE SETTING.

(A) In addition to a monthly minimum basic charge for sanitary sewer service, each user shall pay for the services provided by the village based on his or her use of the treatment works as determined by water meter(s) acceptable to the village. Rates, including monthly minimum basic charges, shall be set by ordinance of the Board of Trustees and on file in the office of the Village Clerk/Treasurer for inspection during office hours.

(B) For residential contributors, monthly user charges will be based on average monthly water usage during the months of January, February and March and shall be determined and established by the Village Clerk/Treasurer beginning in April of each year. If a residential user has not established a January, February and March average, his or her monthly user charge shall be the median charge of all other residential contributors as determined by the Village Clerk/Treasurer, and such charge shall continue until such a monthly average is established for such residential contributor.

(C) For industrial, institutional and commercial contributors, user charges shall be based on water used during the current month; provided, however, if a commercial, institutional or industrial contributor has a consumptive use of water, or in some other manner uses water which is not returned to the wastewater collection system, the user charge for that contributor may be based on a wastewater meter(s) or separate water meter(s) installed and maintained at the contributor's expense, and in a manner acceptable to the village.
(Ord. 2000-1.3, passed 1-10-1999)

Bennet – Public Works

§ 53.43 SURCHARGES.

(A) For those users who contribute wastewater, the strength of which is greater than normal domestic sewage, a surcharge in addition to the normal charge will be collected. The surcharge for operation and maintenance including replacement will be determined by the responsible operating personnel and approved by the Village Board.

(B) Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the village's treatment works, or any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance, or replacement of the treatment works, shall pay for such increased costs. The charge to each such user will be determined by the responsible plant operating personnel and approved by the Village Board.
(1994 Code, § 3-242)

§ 53.44 USER CHARGE REVIEW.

The village will review the user charge system at least every 2 years and revise user charge rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacement costs among users and user classes.
(1994 Code, § 3-243)

§ 53.45 USER CHARGE; NOTIFICATION.

The village will notify each user at least annually, in conjunction with a regular bill, of the rate being charged for operation, maintenance including replacement of the treatment works.
(1994 Code, § 3-244)

§ 53.46 SEWER RATES.

(A) *Residential contributors sewer rate.*

(1) The residential contributors sewer rate shall be applicable when the building, premises or place receiving sanitary sewer service is located within the corporate limits of the village and is used for dwelling or family living purposes.

(2) The residential contributors sewer rate shall be a minimum of \$13.50 per calendar month plus a monthly usage fee of \$3.40 per 1,000 gallons of water or any portion thereof used, which monthly usage fee shall be based on the average monthly water usage during the months of January, February and March. Unless otherwise provided by ordinance, each monthly usage fee shall be established by the Village Clerk/Treasurer during the month of April in each calendar year and shall continue for 1 year or until changed by action of the Board of Trustees.

(B) *Non-residential contributors sewer rate.*

(1) The non-residential contributors rate shall be applicable when the building, premises or place receiving sanitary sewer service is located within the corporate limits of the village and is used for commercial, industrial, institutional or other non-residential purposes.

Sewer

(2) The non-residential contributors sewer rate shall be a minimum of \$13.50 per calendar month plus \$3.40 per 1,000 gallons of water or any portion thereof used during the month.

(C) *Non-resident rate.*

(1) The non-resident contributors sewer rate shall be applicable to all buildings, premises or places receiving sanitary sewer service from the village which are located outside the corporate limits of the village.

(2) The non-resident contributors sewer rate shall be a minimum of \$13.50 per calendar month plus a monthly usage fee of \$3.40 per 1,000 gallons of water or any portion thereof used, which monthly usage fee shall be based on the average monthly water usage during the months of January, February and March established by the Village Clerk/Treasurer during the month of April in each calendar year and shall continue for 1 year or until changed by action of the Board of Trustees.

(Ord. 2000-1.2, passed 1-10-1999; Am. Ord. 2008-10.2, passed 12-8-2008)

§ 53.99 PENALTY.

Any person who shall continue any violation beyond the time limit provided for in § 53.05 shall be guilty of an offense, and on conviction thereof shall be fined in the amount not exceeding \$50 for each violation. Each 24-hour period in which any such violation shall continue shall be deemed a separate offense.

(1994 Code, § 3-238)

Bennet – Public Works

TITLE VII: TRAFFIC CODE

Chapters:

- 70. GENERAL PROVISIONS**
- 71. TRAFFIC REGULATIONS**
- 72. PARKING REGULATIONS**
- 73. TRAFFIC SCHEDULES**
- 74. ALL-TERRAIN AND UTILITY-TYPE VEHICLES**

Bennet – Traffic Code

CHAPTER 70: GENERAL PROVISIONS

Sections:

70.01	Definitions
70.02	Police Enforcement
70.03	Refusal to Obey
70.04	Snow Emergency

Statutory reference:

Powers and Duties of Peace Officers, See Neb. RS 60-683

Powers and Duties of State Patrol, See Neb. RS 81-2005

Regulation of Highways by Local Authorities, See Neb. RS 60-680

§ 70.01 DEFINITIONS.

The words and phrases used in this title, pertaining to motor vehicles and traffic regulations, shall be construed as defined in Neb. RS Chapter 60, Article 6, as now existing or hereafter amended. If not defined in the designated statutes, the word or phrase shall have its common meaning. (Neb. RS 60-606 through 60-676) (1994 Code, § 5-101)

§ 70.02 POLICE ENFORCEMENT.

The County Sheriff's Department shall, by contract, be authorized and empowered, to exercise all powers and duties with relation to the management of street traffic and to direct, control, stop, restrict, regulate, and, when necessary, temporarily divert or exclude in the interest of public safety, health, and convenience the movement of pedestrian and animal and vehicular traffic of every kind in streets, in parks, and on bridges. The driver of any vehicle shall stop upon the signal of any police officer. (1994 Code, § 5-203)

§ 70.03 REFUSAL TO OBEY.

It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal, or direction of a police officer. (1994 Code, § 5-204) Penalty, See § 10.99

§ 70.04 SNOW EMERGENCY.

(A) *Finding.* The Board of Trustees finds that parking and operation of vehicles on streets of the village covered by a heavy accumulation of snow is a matter affecting the health, safety and welfare of the citizens of the village for the reason that parked and stalled vehicles impede snow removal operations and cause serious traffic congestion and hazard.

Bennet – Traffic Code

(B) *Declaration of snow emergency.* Whenever snow has accumulated or there is a possibility that snow will accumulate to such a depth that snow removal operations will be required, the Chairperson of the Board of Trustees, or in the absence of the Chairperson of the Board of Trustees, the Village Clerk, may declare a snow emergency and, until such snow emergency is terminated, it shall be unlawful:

- (1) To park a vehicle on any street within the corporate limits of the village; or
- (2) To operate a motor vehicle on any street within the corporate limits in such a manner or condition that such motor vehicle stalls or is otherwise unable to proceed.

(C) *Notice of snow emergency; termination.* Upon declaring a snow emergency, the Chairperson of the Board of Trustees shall forthwith cause appropriate notice thereof to be given through the local press, radio, or other appropriate media. The snow emergency shall be terminated by notice given substantially in the same manner as the snow emergency was declared.

(D) *Removal of parked vehicles.* Any vehicle parked on a street within the corporate limits must be removed from the street within 2 hours after notice of a snow emergency has been given. Any vehicle parked on a street within the corporate limits of the village after such period of the time may be removed or cause to be removed by the Sheriff or the Utility Superintendent of the village to the nearest garage or other place of safety, and the vehicle may not be recovered until the towing and any storage charges are paid.

(Ord. 2005-5.1, passed 7-11-2005) Penalty, See § 10.99

CHAPTER 71: TRAFFIC REGULATIONS

Sections:

General Provisions

71.01	Truck Routes
71.02	1-Way Traffic
71.03	Traffic Lanes; Designation
71.04	Crosswalks
71.05	Signs; Signal
71.06	Stop Signs
71.07	Engine Brakes Prohibited

Speed Limits

71.20	General Speed Limit
71.21	Near Schools

Statutory reference:

Regulation of Highways by Local Authorities, See Neb. RS 60-680

Cross-reference:

Snow Emergency, See § 70.04

GENERAL PROVISIONS

§ 71.01 TRUCK ROUTES.

The Board of Trustees may, by resolution, designate certain streets in the municipality that trucks shall travel upon, and it shall be unlawful for persons operating the 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 the truck shall return to the truck routes as soon as possible in traveling through or about the municipality. The Board of Trustees shall cause notices to be posted or shall erect signs indicating the streets so designated as truck routes.

(1994 Code, § 5-102) Penalty, See § 10.99

Statutory reference:

Truck Routes Authorized, See Neb. RS 60-681

§ 71.02 1-WAY TRAFFIC.

The Board of Trustees may, by resolution, provide for 1-way travel in any street, or alley located in the municipality and shall provide for appropriate signs and markings when the streets have been so designated by resolution.

Bennet – Traffic Code

§ 71.03 TRAFFIC LANES; DESIGNATION.

The Board of Trustees may, by resolution, mark lanes for traffic on street pavements at the places as it may deem advisable.

§ 71.04 CROSSWALKS.

The Board of Trustees may, by resolution, establish and maintain by appropriate devices, markers, or lines upon the street crosswalks at intersections where there is particular danger to pedestrians crossing the street, and at the other places as it may deem necessary.

§ 71.05 SIGNS; SIGNAL.

The Board of Trustees may, by resolution, provide for the placing of stop signs or other signs, signals, standards, or mechanical devices in any street or alley under the municipality's jurisdiction for the purpose of regulating or prohibiting traffic thereon. The resolution shall describe the portion of the street or alley wherein traffic is to be regulated or prohibited, the regulation or prohibition, the location where the sign, signal, standard, or mechanical device shall be placed, and the hours when the regulation or prohibition shall be effective. It shall be unlawful for any person to fail, neglect, or refuse to comply with the regulation or prohibition.
(1994 Code, § 5-103) Penalty, See § 10.99

Statutory reference:

Obedience to, Placement of, and Authority over Traffic-Control Devices, See Neb. RS 60-6,119 through 60-6,121

§ 71.06 STOP SIGNS.

Every person operating any vehicle shall, upon approaching any stop sign erected in accordance with the resolution prescribed heretofore, cause the 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.
Penalty, See § 10.99

§ 71.07 ENGINE BRAKES PROHIBITED.

It shall be unlawful for any person to retard or attempt to retard the forward movement of any vehicle within the village limits by using motor vehicle brakes that are activated or operated by the compression of the engine of any vehicle or any unit or part thereof.
(Ord. 2001-6.2, passed 6-11-2001) Penalty, See § 10.99

Traffic Regulations

SPEED LIMITS

§ 71.20 GENERAL SPEED LIMIT.

No person shall operate a motor vehicle on any street, alley, or other place at a rate of speed greater than 25 mph within the residential district, and 20 mph 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. (Ord. 2001-4.1, passed 5-21-2001) Penalty, See § 10.99

§ 71.21 NEAR SCHOOLS.

It shall be unlawful for the driver of any vehicle, when passing premises on which school buildings are located, and which are used for school purposes, during school recess, or while children are going to, or leaving school during the opening or closing hours to drive the vehicle at a rate of speed in excess of 15 mph past the premises, and the driver shall stop at all stop signs located at, or near, the school premises, and it shall be unlawful for the driver to make a U-turn at any intersection where the stop signs are located at, or near, the school premise. (1994 Code, § 5-202) Penalty, See § 10.99

Bennet – Traffic Code

CHAPTER 72: PARKING REGULATIONS

Sections:

General Provisions

72.01	Brakes and Turned Wheels Required
72.02	Parallel Parking Required; Exceptions
72.03	Designation of Type of Parking
72.04	Areas of Prohibited Parking
72.05	Alleys; Restrictions
72.06	Unloading; Freight Vehicles
72.07	Fire Hydrants and Stations
72.08	Schools, Theaters
72.09	Street Intersections
72.10	Obstructing Traffic
72.11	Curb Parking; Painting of Curbs
72.12	Display or Repair
72.13	Current Registration
72.14	Time Limit
72.15	Emergency Vehicles

Administration and Enforcement

72.30	Removal of Illegally Parked Vehicles
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Cross-reference:

Snow Emergency, See § 70.04

GENERAL PROVISIONS

§ 72.01 BRAKES AND TURNED WHEELS REQUIRED.

No person having control or charge of a motor vehicle shall allow the vehicle to stand unattended without first effectively setting the brakes thereon and, when standing upon any grade, without turning the front wheels of the vehicle to the curb or side of the street. The driver of a motor vehicle, when traveling upon a down grade upon any street, shall not coast with the gears of the vehicle in neutral.

Penalty, See § 10.99

§ 72.02 PARALLEL PARKING REQUIRED; EXCEPTIONS.

No person shall park any vehicle or approach the curb with a vehicle, except when headed in the direction of the traffic. Vehicles, when parked, shall stand parallel with and adjacent to the curb or edge of the roadway in the manner as to have both right wheels within 12 inches of the curb or edge of the roadway and so as to leave at least 4 feet between the vehicle so parked and any other parked

Bennet – Traffic Code

vehicles, except where the Board of Trustees designates that vehicles shall be parked at an angle so as to have the front right wheel at the curb or edge of the roadway. Where stalls are designated either on the curb or pavement, vehicles shall be parked within the stalls. No vehicle shall be parked upon a roadway when there is a shoulder adjacent to the roadway which is available for parking.
(1994 Code, § 5-301) Penalty, See § 10.99

§ 72.03 DESIGNATION OF TYPE OF PARKING.

The Board of Trustees may, by resolution, designate any street, or portion thereof, where vehicles shall be parked parallel with and adjacent to the curb or at an angle so as to have the right front wheel at the curb.
(1994 Code, § 5-302)

§ 72.04 AREAS OF PROHIBITED PARKING.

The Board of Trustees may, by resolution, set aside any street, alley, public way, or portion thereof where the parking of a particular kind or class of vehicle shall be prohibited, or where the parking of any vehicle shall be prohibited. No vehicle prohibited from parking thereon shall stand or be parked adjacent to the curb of the street, alley, public way, or portion thereof, longer than a period of time necessary to load and unload freight or passengers.
(1994 Code, § 5-303) Penalty, See § 10.99

§ 72.05 ALLEYS; RESTRICTIONS.

(A) No vehicle, while parked, shall have any portion thereof projecting into any alley entrance.
(1994 Code, § 5-304)

(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 ½ hour. Every vehicle while loading or unloading in any alley shall be parked in the manner as will cause the least obstruction possible to traffic in the alley.
(1994 Code, § 5-305) Penalty, See § 10.99

§ 72.06 UNLOADING; FREIGHT VEHICLES.

Vehicles on an over-all length less than 20 feet, including load, while discharging or loading freight may back to the curb but shall occupy as little of the street as possible.
Penalty, See § 10.99

§ 72.07 FIRE HYDRANTS AND STATIONS.

No vehicle shall be parked within 15 feet in either direction of any fire hydrant nor within 20 feet of the driveway entrance to any fire station. The curb space within the area of 15 feet in either direction of the fire hydrant shall be painted red to indicate the prohibition.
(Neb. RS 60-6,166) Penalty, See § 10.99

Parking Regulations

§ 72.08 SCHOOLS, THEATERS.

The Board of Trustees may, by resolution, prohibit the parking or stopping except for loading or unloading of passengers or freight, of vehicles at the curb on streets directly in front of any entrance to a school house, school building, or theater, and the curbs adjacent to the entrance of the school house, school building, or theater shall be painted red to indicate the prohibition.

§ 72.09 STREET INTERSECTIONS.

Except in compliance with traffic-control devices, no vehicle shall be parked or left standing for any purpose, except momentarily to load or discharge passengers, within 25 feet of the intersection or curb lines or, if none, then within 15 feet of the intersection of property lines, nor where the curb lines are painted red to indicate the prohibition.
(1994 Code, § 5-306) Penalty, See § 10.99

Statutory reference:

Authority, See Neb. RS 60-6,166

§ 72.10 OBSTRUCTING TRAFFIC.

No person shall, except in case of an accident or emergency, stop any vehicle in any location where the stopping will obstruct any street, intersection, or entrance to an alley or public or private drive.
Penalty, See § 10.99

§ 72.11 CURB PARKING; PAINTING OF CURBS.

(A) No vehicle shall park on any street with its left side to the curb, unless the street has been designated to be a “1-way” street by the Board of Trustees. Vehicles must not be parked at any curb in a position as to prevent another vehicle already parked at the curb from moving away.

(B) It shall be the duty of the Board of Trustees or its agent to cause the curb space to be painted and keep the same painted as provided in this section. No person, firm, or corporation shall paint the curb of any street or in any manner set aside or attempt to prevent the parking of vehicles in any street, or part thereof, except at the places where the parking of vehicles is prohibited by the provisions of this chapter. The marking or designating of portions of streets or alleys where the parking of vehicles is prohibited or limited shall be done only by the municipality through its proper officers, at the direction of the Board of Trustees.
(1994 Code, § 5-307) Penalty, See § 10.99

§ 72.12 DISPLAY OR REPAIR.

(A) It shall be unlawful for any person to park upon any street, alley, or public place within this municipality any vehicle displayed for sale.

Bennet – Traffic Code

(B) No person shall adjust or repair any automobile or motorcycle, or race the motor of same, while standing on the public streets or alleys of this municipality, except in case of breakdown or other emergency requiring same.

(C) No person or employee connected with a garage or repair shop shall use sidewalks, streets, or alleys in the vicinity of the garage or shop for the purpose of working on automobiles or vehicles of any description.

(1994 Code, § 5-308) Penalty, See § 10.99

§ 72.13 CURRENT REGISTRATION.

It shall be unlawful to park or place on the streets, alleys, or other public property any vehicle without first securing a current registration as provided by law.

Penalty, See § 10.99

§ 72.14 TIME LIMIT.

(A) The Board of Trustees may, by resolution, entirely prohibit or fix a time limit for the parking and stopping of vehicles on any street, streets, or district designated by the resolution, and the parking, or stopping, of any vehicle in any street, streets, or district, for a period of time longer than fixed in the resolution shall constitute a violation of this chapter.

(B) The parking of a motor vehicle on a public street for over 24 consecutive hours is unlawful, except where a different maximum time limit is posted.

(1994 Code, § 5-309) Penalty, See § 10.99

§ 72.15 EMERGENCY VEHICLES.

The provisions of this chapter regulating the movement, parking, and standing of vehicles shall not apply to authorized emergency vehicles, as defined in this title, while the driver of the vehicle is operating the same in an emergency in the necessary performance of public duties.

Statutory reference:

Privileges of and Conditions on Authorized Emergency Vehicles, See Neb. RS 60-6,114

ADMINISTRATION AND ENFORCEMENT

§ 72.30 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 the chapter, the individual may remove or have the vehicle removed or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway of the street or alley or from the street or alley.

(B) The owner or other person lawfully entitled to the possession of any vehicle towed or stored shall be charged with the reasonable cost of towing and storage fees. Any towing or storage fee

Parking Regulations

shall be a lien upon the vehicle prior to all other claims. Any person towing or storing a vehicle shall be entitled to retain possession of the vehicle until the charges are paid. The lien provided for in this section shall not apply to the contents of any vehicles.
(Neb. RS 60-6,165) (1994 Code, § 5-320)

Bennet – Traffic Code

CHAPTER 73: TRAFFIC SCHEDULES

Schedules:

I. Speed limits

SCHEDULE I. SPEED LIMITS.

<i>Street</i>	<i>Location</i>	<i>Speed Limit</i>
State Highway 43 (Monroe Street)	Between Apple Street and Juniper Street	35 mph
Cottonwood Street	Between the east right-of-way line of Tyler Street and the east corporate limits	30 mph

(Ord. 2001-4.1, passed 5-21-2001) Penalty, See § 10.99

Bennet – Traffic Code

CHAPTER 74: ALL-TERRAIN AND UTILITY-TYPE VEHICLES

Sections:

74.01	Definitions
74.02	All-Terrain Vehicle; Utility-Type Vehicle; Operation on Village Streets; Permitted
74.03	All-Terrain Vehicle; Utility-Type Vehicle; Restrictions on Operation

§ 74.01 DEFINITIONS.

For purposes of this section:

- (A) All-terrain vehicle means any motorized off-highway vehicle which:
 - (1) Is 50 inches or less in width;
 - (2) Has a dry weight of 900 pounds or less;
 - (3) Travels on 4 or more low-pressure tires;
 - (4) Is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and 1 passenger;
 - (5) Has a seat or saddle designed to be straddled by the operator; and
 - (6) Has handlebars or any other steering assembly for steering control.
- (B) Street or highway means the entire width between the boundary limits of any street, road, avenue, boulevard, or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
- (C) Utility-type vehicle means any motorized off-highway vehicle which:
 - (1) Is not less than 48 inches nor more than 74 inches in width;
 - (2) Is not more than 135 inches, including the bumper, in length;
 - (3) Has a dry weight of not less than 900 pounds nor more than 2,000 pounds;
 - (4) Travels on 4 or more low-pressure tires; and

Bennet – Traffic Code

(5) Is equipped with a steering wheel and bench or bucket-type seating designed for at least 2 people to sit side-by-side.

Utility-type vehicle does not include golf carts or low-speed vehicles.
(Ord. 2011-8.3 § 1, passed 11-14-2011)

§ 74.02 ALL-TERRAIN VEHICLE; UTILITY-TYPE VEHICLE; OPERATION ON VILLAGE STREETS; PERMITTED.

All-terrain vehicles and utility-type vehicles may be operated on streets and highways within the corporate limits of the Village subject to the provisions of § 74.03.

(Ord. 2011-8.3 § 2, passed 11-14-2011)

§ 74.03 ALL-TERRAIN VEHICLE; UTILITY-TYPE VEHICLE; RESTRICTIONS ON OPERATION.

(A) An all-terrain vehicle or a utility-type vehicle may be operated only between the hours of sunrise and sunset and shall not be operated at a speed in excess of 30 miles per hour. When operating an all-terrain vehicle or a utility-type vehicle as authorized by § 74.02, the headlight and taillight of the vehicle shall be on and the vehicle shall be equipped with a bicycle safety flag which extends not less than 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-glow in color.

(B) Any person operating an all-terrain vehicle or a utility-type vehicle as authorized by § 74.02 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 all-terrain vehicle or a utility-type vehicle while operating the all-terrain vehicle or a utility-type vehicle on a street or highway. The person operating the all-terrain vehicle or a utility-type vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within 5 days of such a request.

(C) All-terrain vehicles and utility-type vehicles may be operated without complying with subsections (A) and (B) of this section on streets and highways in parades that have been authorized by the State of Nebraska or any department, board, commission, or political subdivision of the state.

All-Terrain and Utility-Type Vehicles

(D) An all-terrain vehicle or a utility-type vehicle shall not be operated on any controlled-access highway with more than 2 marked traffic lanes, and the crossing of any controlled-access highway with more than 2 marked traffic lanes shall not be permitted.

(E) Subject to subsection (D) of this section, the crossing of a street or highway shall be permitted by an all-terrain vehicle or a utility-type vehicle without complying with subsections (A) and (B) of this section only if:

(1) The crossing is made at an angle of approximately 90 degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing;

(2) The vehicle is brought to a complete stop before crossing the shoulder or roadway of the street or highway;

(3) The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;

(4) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway; and

(5) Both the headlight and taillight of the vehicle are on when the crossing is made.
(Neb. RS 60-6,355 *et seq.*) (Ord. 2011-8.3 § 3, passed 11-14-2011)

Bennet – Traffic Code

TITLE IX: GENERAL REGULATIONS

Chapters:

- 90. FIRE REGULATIONS**
- 91. HEALTH AND SAFETY**
- 92. PUBLIC WAYS AND PROPERTY**
- 93. ANIMALS**
- 94. LEISURE AND RECREATION**

Bennet – General Regulations

CHAPTER 90: FIRE REGULATIONS

Sections:

Fireworks

90.01	Definitions
90.02	Unlawful Acts; Enumerated
90.03	Sale and Use of Bottle Rockets, Skyrockets, and Like Devices Prohibited; Unlawful Acts
90.04	Unlawful Discharging, Firing, Launching, or Throwing Prohibited
90.05	When Prohibition not Applicable
90.06	Permissible Sale and Use; Hours of Sale; Use Restricted
90.07	Retail Sale; License Required; Fee
90.08	Location of Stand; Generally
90.09	Banning; Emergencies
90.10	Fees Received; Deposit in General Fund

FIREWORKS

§ 90.01 DEFINITIONS.

For the purpose of §§ 90.01 *et seq.* certain words, phrases, and terms shall be construed as defined in Neb. RS, Chapter 27, as now existing or hereafter amended or as defined below unless the context otherwise requires.

FIREWORKS. Any combustible or explosive composition, or any substance or combination of substances, or articles prepared for the purposes of producing a visible or an audible effect by combustion, explosion, deflagration or detonation.

PERMISSIBLE FIREWORKS. Only those allowed by Neb. RS 28-1247 or successive statutes.

RETAILER. Any person engaged in the business of making sales of fireworks at retail.

SALE. Includes barter, exchange, or gift, or offer therefor, and each transaction made by any person, whether as principal, proprietor, agent, servant, or employee.
(Ord. 1998-2.1, passed 2-9-1998)

Bennet – General Regulations

§ 90.02 UNLAWFUL ACTS; ENUMERATED.

Except as provided in § 90.05, it shall be unlawful for any person to possess, sell, offer for sale, bring into the village, or discharge, explode, or use any pyrotechnics, commonly known as fireworks, other than permissible fireworks, except that this section shall not be construed to prohibit the transport of fireworks through the village.

(Ord. 1998-2.1, passed 2-9-1998) Penalty, See § 10.99

§ 90.03 SALE AND USE OF BOTTLE ROCKETS, SKYROCKETS, AND LIKE DEVICES PROHIBITED; UNLAWFUL ACTS.

Fireworks commonly known as skyrockets, bottle rockets, or any other form of fireworks consisting of a case containing a combustible composition fastened to a guiding stick which is designed and manufactured to be projected through the air by the reaction resulting from the rearward discharge of gases liberated by combustion and fireworks commonly known as helicopters or any other form of fireworks which launch in their entirety and leave no base shall not be permissible fireworks within the Village of Bennet, notwithstanding any action by the State Fire Marshal to the contrary, and it shall be unlawful for any person to sell at retail, offer for sale at retail, discharge, explode, or use any of the fireworks within the village.

(Ord. 1998-2.1, passed 2-9-1998) Penalty, See § 10.99

§ 90.04 UNLAWFUL DISCHARGING, FIRING, LAUNCHING, OR THROWING PROHIBITED.

(A) It shall be unlawful for any person to discharge, fire, launch, or throw any fireworks or any object which explodes upon contact with another object:

- (1) From or onto any motor vehicle;
- (2) Onto any street, highway, or sidewalk;
- (3) At or near any person;
- (4) Into or upon any building;
- (5) Into or at any group of persons; or
- (6) Into or upon the premises of another person.

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

PERSON. Any natural person or any private or public firm, partnership, or corporation.

Fire Regulations

(C) It shall further be unlawful for any person to discharge, fire, launch, or throw any fireworks from, to or on any property without the express permission of the owner of the property. (Ord. 1998-2.1, passed 2-9-1998) Penalty, See § 10.99

§ 90.05 WHEN PROHIBITION NOT APPLICABLE.

The provisions of §§ 90.01 *et seq.* shall not apply to:

(A) Any fireworks for purpose of public exhibition or displays purchased from a distributor licensed under the state law or the holder of a display license issued by the State Fire Marshal as provided by state law;

(B) Any public exhibition or display under the auspices of any governmental subdivision of this state; and

(C) Toy cap pistols or toy caps, each of which does not contain more than twenty-five hundredths of a gram of explosive material. (Neb. RS 28-1245) (1994 Code, § 7-205)

§ 90.06 PERMISSIBLE SALE AND USE; HOURS OF SALE; USE RESTRICTED.

Permissible fireworks may be sold at retail, offered for sale at retail, discharged, exploded, or used within the Village of Bennet only from June 28 through and including July 4 of each year; provided it shall be unlawful to discharge, explode, or use permissible fireworks on the dates before 8:00 a.m. and after 10:00 p.m. except on July 4 when permissible fireworks may be lawfully sold, discharged, exploded, or used between the hours of 8:00 a.m. and 12:00 p.m. (Ord. 1999-9.1, passed 9-15-1999; Am. Ord. 2008-1.3, passed 3-10-2008) Penalty, See § 10.99

§ 90.07 RETAIL SALE; LICENSE REQUIRED; FEE.

(A) It shall be unlawful for any person to sell, hold for sale, or offer for sale at retail, any permissible fireworks in the village unless the person has first obtained a license from the village as a retailer.

(B) No person or organization may receive more than 1 license during any 1 calendar year. Each license granted shall be for 1 specific location identified by an address or suitable area description on the application. Licenses shall be considered personal to the applicant and may not be assigned in any manner.

(C) (1) *Application.* Application for a license required under the provisions of this section shall be made in the office of the Village Clerk/Treasurer only between January 1 and April 1 of each year. At the time of the application, an applicant shall furnish to the village a list of all persons

Bennet – General Regulations

who will be employed by the applicant and who, at any given time, will be in charge of the place of sale. All persons designated as “in charge” shall be residents of the village. It shall be incumbent upon the applicant to keep this list current so that the names of the employees having management responsibilities will always be on file in the office of the Village Clerk/Treasurer.

(2) *Fees.* Each application for a license required by this section shall be accompanied by the following appropriate nonrefundable license fee; retailer’s license - \$500.

(3) *Consent form; bond required.* Before the issuance of any retailer’s fireworks license, the applicant shall execute a consent form agreeing to abide by any regulations imposed by the village pertaining to the sale of fireworks and shall furnish to the village a cash bond in the amount of \$500; conditioned that the licensee shall abide by any and all regulations proposed by the village pertaining to the sale of fireworks, and that the licensee shall clean the area in and around any stand where fireworks were sold and remove any portable stand from its temporary location, the work to be done by July 7 of each succeeding year.

(4) *Consent form; bond; forfeiture.* Cash bonds, as provided in division (C)(3) above shall be returned to the licensee when the Village Maintenance Person shall have certified that the conditions of the bond have been satisfied. In the event any portable stand is not removed from its temporary location within the allotted time, or the sale area is not cleaned and the debris and trash not removed therefrom, then the cash bond shall be forfeited and the proceeds used by the village to clean the area and remove the stand.

(5) *Retailer’s place of business.* A retailer’s license issued under the provisions of this section shall be conditioned upon the licensee providing an acceptable fireworks stand or place of business.

(6) *Inspection required.* The license may be obtained at the office of the Village Clerk/Treasurer only after an inspection by the Village Clerk/Treasurer or the Village Maintenance Person of the fireworks stand or place of sale to determine if the stand or place of sale conforms to all village standards, building codes, and land use regulations.

(7) *Duty of licensee.* The applicant for a license required by the provisions of this section shall request the village to make the inspection not later than June 26 of each calendar year, and the inspection shall be made by the village within 24 hours after the request. In the event of any violation, the license may not be picked up from the Village Clerk/Treasurer until the violation is corrected.

(8) *Display.* Licenses issued under the provisions of this section shall be displayed at all times at the place of business of the licensee.

(9) *Duration.* Licenses issued under the provisions of this section shall be valid only for the calendar year in which issued.

Fire Regulations

(10) *Violations.* Any person or any licensee who violates any of the provisions of this section shall be deemed guilty of a misdemeanor and, in addition to any fine, any person who is licensed shall be subject to the revocation of the license. Upon complaint being filed with the Village Clerk/Treasurer, the Village Clerk/Treasurer shall notify the licensee in writing and shall order a hearing before the Board of Trustees to show cause why the license should not be revoked. The hearing shall be not less than 3 days after the filing of the complaint. The Board of Trustees shall conduct a special hearing for purposes of determining whether the license shall be revoked. The licensee shall appear in person or by his or her attorney and upon revocation no refund of any portion of the license fee shall be made to the licensee and he or she shall immediately close all business at all places under the license.

(Ord. 2000-9.1, passed 9-13-2000; Am. Ord. 2008-6.3, passed 6-9-2008) Penalty, See § 10.99

§ 90.08 LOCATION OF STAND; GENERALLY.

(A) *Generally.* In addition to all other requirements and regulations of the village, all fireworks stands, booths or other places of sale of fireworks shall be located and set back at least 25 feet from the nearest right-of-way line of any public right-of-way, and be separated from any permanent building structure by a minimum of 15 feet. Fireworks shall be sold from within a temporary building structure, utilizing a booth or stand allowing for walkup sales; a temporary building structure which allows patrons to enter the structure; or a tent. No structure or tent used for the sale of fireworks shall exceed a maximum floor space of 1,250 square feet. In addition, structures or tents used for the sale of fireworks must have a minimum of 3 entryways which shall be a minimum of 3 feet across and be as remote from the other entryways as is practicable given the size and design of the structure or tent. Tents used for the sale of fireworks shall be flame retardant and a retailer using the shall keep proof at the sales location that the tent is flame retardant. Each applicant shall provide a plat plan showing location of the stand, address, setback from street right-of-way, distance to nearest building or structure and occupancy of newest building.

(B) *Proximity to certain businesses.* Stands and areas where fireworks are to be sold shall be located at least 75 feet from any gasoline service station or automotive repair shop using flammable materials. The distance shall be measured from the closest point where fireworks are sold or stored, to the closest point where gasoline or combustible material is dispensed or stored above ground.

(C) *Screening.* All windows, entryways, and other openings on any building structure or tent from which fireworks are sold shall be covered by a screen, with squares or openings in the screen not more than 1/4 inch across; provided, a fireworks stand or booth that allows for walkup sales may have up to 1 foot of the space immediately above the sales counter area unscreened for the transaction of business.

(D) *Fire extinguisher.* A minimum 10 pound Class A fire extinguisher must be kept in each fireworks stand at all times.

Bennet – General Regulations

(E) *Compliance with state laws.* In addition to all requirements and regulations of the village, all sellers of fireworks shall comply with all laws, regulations, and rules of the State of Nebraska dealing with the sale and distribution of fireworks.
(Ord. 1998-2.1, passed 2-9-1998) Penalty, See § 10.99

§ 90.09 BANNING; EMERGENCIES.

The Board of Trustees may prohibit the sale of all fireworks at any time during which the State Fire Marshal has declared a fire emergency by virtue of drought conditions or at any time during which the Lancaster County Sheriff's Office deems the banning to be necessary to preserve the life, safety, and welfare of the population.
(Neb. RS 17-556) (1994 Code, § 7-206)

§ 90.10 FEES RECEIVED; DEPOSIT IN GENERAL FUND.

The funds received under the provisions hereof shall be deposited in the general fund of the municipality.
(Ord. 1998-2.1, passed 2-9-1998)

CHAPTER 91: HEALTH AND SAFETY

Sections:

General Provisions

- 91.01 Health Regulations
- 91.02 Enforcement Official
- 91.03 County Health Board

Nuisances

- 91.20 Definition
- 91.21 Abatement Procedure
- 91.22 Jurisdiction
- 91.23 Adjoining Land Owners; Intervention before Trial
- 91.24 Dead or Diseased Trees

Cross-reference:

Trees, See § 92.11

GENERAL PROVISIONS

§ 91.01 HEALTH REGULATIONS.

For the purpose of promoting the health and safety of the residents of the municipality, the Board of Health shall, from time to time, adopt the rules and regulations relative thereto and shall make the inspections, prescribe the penalties, and make the reports as may be necessary toward that purpose. (1994 Code, § 4-101)

Statutory reference:

Authority to regulate, See Neb. RS 17-208

§ 91.02 ENFORCEMENT OFFICIAL.

(A) The Board of Health shall be responsible for enforcing the health regulations of the village.

Bennet – General Regulations

(B) It shall be the duty of the Board of Health to notify the Board of Trustees of health nuisances within the municipality and its zoning jurisdiction.
(1994 Code, § 4-102)

Statutory reference:

Quarantine Officer, See Neb. RS 17-208

§ 91.03 COUNTY HEALTH BOARD.

It shall be the duty of the Board of Health to work closely with the County Health Board in protecting the health and welfare of the residents of the municipality.
(1994 Code, § 4-104)

NUISANCES

§ 91.20 DEFINITION.

(A) *General definition.* 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:

- (1) Injures or endangers the comfort, repose, health, or safety of others;
 - (2) Offends decency;
 - (3) Is offensive to the senses;
 - (4) Unlawfully interferes with, obstructs, tends to obstruct, or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the municipality;
 - (5) In any way renders other persons insecure in life or the use of property; or
 - (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.
- (1994 Code, § 4-201)

(B) *Specific definition.* 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***:

Health and Safety

- (1) 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;
- (2) Privies, vaults, cesspools, dumps, pits, or like places which are not securely protected from flies or rats, or which are foul or malodorous;
- (3) Filthy, littered, or trash-covered cellars, houseyards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings, or premises;
- (4) Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the municipality;
- (5) 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 that nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the municipality, nor the dumping of nonputrefying waste in a place and manner approved by the health officer;
- (6) Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles;
- (7) Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of the articles or materials create a condition in which flies or rats 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;
- (8) Any unsightly building, billboard, or other structure, or any old, abandoned, or partially destroyed building or structure or any building or structure commenced and left unfinished, which buildings, billboards, or other structures are either a fire hazard, a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity thereof;
- (9) All places used or maintained as junk yards, or dumping grounds, or for the wrecking and disassembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn-out, wrecked, or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof;
- (10) Stagnant water permitted or maintained on any lot or piece of ground;

Bennet – General Regulations

(11) Stockyards, granaries, mills, pig pens, cattle pens, chicken pens or any other place, building or enclosure, in which animals or fowls of any kind are confined or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when the places in which the animals are confined, or the premises on which the vegetable or animal matter is located are maintained and kept in a manner that foul and noxious odors are permitted to emanate therefrom to the annoyance of inhabitants of the municipality or are maintained and kept in a manner as to be injurious to the public health; or

(12) All other things specifically designated as nuisances elsewhere in this code.
(1994 Code, § 4-202) Penalty, See § 10.99

Statutory reference:

Authority to Regulate and Abate Nuisances, See Neb. RS 18-1720

§ 91.21 ABATEMENT PROCEDURE.

(A) (1) It shall be the duty of every owner or occupant of real estate in the municipality to keep the real estate free of public nuisances.

(2) Upon determination by the Board of Health that the owner or occupant has failed to keep the real estate free of public nuisances, notice to abate and remove the nuisance and notice of the right to a hearing before the Board of Trustees and the manner in which it may be requested shall be given to the owner or occupant, or the owner's or occupant's duly authorized agent, by personal service or certified mail. The notice shall describe the condition as found by the Board of Health and state that the condition has been declared a public nuisance and that the condition must be remedied at once. Within 10 days after the receipt of the notice, if the owner or occupant of the real estate does not request a hearing or fails to comply with the order to abate and remove the nuisance, the municipality shall have the work done and may levy and assess the costs and expenses of the work upon the real estate so benefitted in the same manner as other special taxes for improvements are levied and assessed.

(B) If the owner or occupant requests in writing a hearing with the Board of Trustees, the Board of Trustees shall fix a time and place at which a hearing will be held. Notice of the hearing shall be given by personal service or certified mail and require the owner or occupant to appear before the Board of Trustees to show cause why the condition should not be found to be a public nuisance and remedied. The notice shall be given not less than 7 nor more than 14 days before the time of the hearing. Upon the date fixed for the hearing and pursuant to the notice, the Board of Trustees shall hear all objections made by the owner or occupant and shall hear evidence submitted by the Board of Health. If after consideration of all the evidence the Board of Trustees finds that the condition is a public nuisance, it shall, by resolution, order and direct the owner or occupant to remedy the public nuisance at once. If the owner or occupant refuses or neglects to promptly comply with the order of the Board of Trustees, the Board of Trustees shall proceed to cause the abatement of the described public

Health and Safety

nuisance and may levy and assess the costs and expenses of the work upon the real estate so benefitted in the same manner as other special taxes for improvements are levied and assessed.

(1994 Code, § 4-203) Penalty, See § 10.99

Statutory reference:

Authority to Regulate and Abate Nuisances, See Neb. RS 18-1720

§ 91.22 JURISDICTION.

The Board of Health is directed to enforce this municipal code against all nuisances. The jurisdiction of the Board of Health and the municipality shall extend to, and the territorial application of this chapter shall include, all territory adjacent to the limits of the municipality within 1 mile thereof and all territory within the corporate limits.

(1994 Code, § 4-205)

Statutory reference:

Authority to Regulate and Abate Nuisances, See Neb. RS 18-1720

Zoning Jurisdiction, See Neb. RS 17-1001

§ 91.23 ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL.

In cases of appeal from an action of the Board of Trustees condemning real property as a nuisance or as dangerous under the police powers of the municipality, the owners of the adjoining property may intervene in the action at any time before trial.

(Neb. RS 19-710) (1994 Code, § 4-206)

§ 91.24 DEAD OR DISEASED TREES.

(A) It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits of the municipality.

(B) It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees on private property within the corporate limits of the municipality. For the purpose of carrying out the provisions of this section, the Board of Health shall have the authority to enter upon private property to inspect the trees thereon.

(C) Notice to abate and remove the nuisance 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 the 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 municipality may have the work done and

Bennet – General Regulations

may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefitted in the same manner as other special taxes for improvements are levied or assessed. (1994 Code, § 4-204) Penalty, See § 10.99

Statutory reference:

Authority to Regulate and Abate Dead and Diseased Trees, See Neb. RS 17-555

Authority to Regulate and Abate Nuisances, See Neb. RS 18-1720

Nuisances Prohibited, See Neb. RS 28-1321

CHAPTER 92: PUBLIC WAYS AND PROPERTY

Sections:

Municipal Property

- 92.01 Definition
- 92.02 Maintenance and Control
- 92.03 Obstructions
- 92.04 Overhanging Branches
- 92.05 Sale and Conveyance of Real Property
- 92.06 Sale and Conveyance of Personal Property
- 92.07 Acquisition of Property; Construction; Elections, when Required
- 92.08 Acquisition of Real Property; Appraisal
- 92.09 Acquisition of Real Property; Public Meeting
- 92.10 Public Works Involving Architecture or Engineering; Requirements
- 92.11 Trees

Sidewalks

- 92.25 Kept Clean
- 92.26 Maintenance
- 92.27 Repair
- 92.28 Construction at Owner's Initiative
- 92.29 Construction at Municipal Direction

Streets

- 92.45 Names and Numbers
- 92.46 Cutting into Paving, Curb, or Sidewalk
- 92.47 Excavation
- 92.48 Driving Stakes
- 92.49 Mixing Concrete
- 92.50 Harmful Liquids
- 92.51 Heavy Equipment; Special Tires

Bennet – General Regulations

MUNICIPAL PROPERTY

§ 92.01 DEFINITION.

For the purpose of §§ 92.01 *et seq.*, the following definition shall apply unless the context clearly indicates or requires a different meaning.

SIDEWALK SPACE. The portion of a street between curb lines and adjacent property lines.
(1994 Code, § 8-101)

§ 92.02 MAINTENANCE AND CONTROL.

The Board of Trustees shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the municipality and shall cause the same to be kept open and in repair and free from nuisances.
(Neb. RS 17-567(1)) (1994 Code, § 8-102)

§ 92.03 OBSTRUCTIONS.

Trees and shrubs growing upon or near the lot line, or upon public ground, and interfering with the use or construction of any public improvements shall be deemed an obstruction under this chapter. The trees and shrubs and their roots may be removed by the municipality at the expense of the owner of the property upon which the tree is located should the owner fail, or neglect, after notice, to do so. It shall be unlawful for any person, persons, firm, or corporation to obstruct, or encumber, by fences, gates, buildings, structures, or otherwise, any of the streets, alleys, or sidewalks.
(1994 Code, § 8-104) Penalty, See § 10.99

Statutory reference:

Authority to Regulate and Abate Obstructions, See Neb. RS 17-557 and 17-557.01

Authority to Remove Obstructions, See Neb. RS 17-555

§ 92.04 OVERHANGING BRANCHES.

The owner or occupant of any lot, piece, or parcel of ground abutting or adjacent to any street or sidewalk over which there extends the branches of trees shall at all times keep the branches or limbs thereof trimmed to the height of at least 8 feet above the surface of the walk and at least 14 feet above the surface of the street. 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 the street or sidewalk, the Board of Trustees at any regular or special meeting may pass a resolution ordering the owner or occupant to cut or remove the obstructions within 5 days after having received a copy thereof from the Utilities Superintendent

Public Ways and Property

stating that the municipality will remove the branches and charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided, if the resolution is not complied with. In the event the property owner is a nonresident of the county in which the property lies, the municipality 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. The last known address shall be that address listed on the current tax rolls at the time the required notice was first published.
(1994 Code, § 8-105) Penalty, See § 10.99

Statutory reference:

Authority to Regulate, See Neb. RS 17-557 and 17-557.01

§ 92.05 SALE AND CONVEYANCE OF REAL PROPERTY.

(A) Except as provided in division (I) below, the power of the village to convey any real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution, directing the sale at public auction or by sealed bid of the real and personal property and the manner and terms thereof, except that the real property shall not be sold at public auction or by sealed bid when:

- (1) The property is being sold in compliance with the requirements of federal or state grants or programs;
- (2) The property is being conveyed to another public agency; or
- (3) The property consists of streets and alleys.

(B) The Board of Trustees may establish a minimum price for the real property at which bidding shall begin or shall serve as a minimum for a sealed bid.

(C) After the passage of the resolution directing the sale, notice of all proposed sales of real property described in division (A) above and the terms thereof shall be published once each week for 3 consecutive weeks in a legal newspaper published in or of general circulation in the village.

(D) If a remonstrance against the sale, signed by registered voters thereof equal in number to 30% of the registered voters of the village voting at the last regular village election held therein, be filed with the Board of Trustees after the third publication notice, the property shall not then, nor within 1 year thereafter, be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the 30-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day.

(E) Upon the receipt of the remonstrance, the Board of Trustees, with the aid and assistance of the Election Commissioner or County Clerk, shall determine the validity and sufficiency of signatures on the remonstrance. The Board of Trustees shall deliver the remonstrance to the Election

Bennet – General Regulations

Commissioner or County Clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested, for comparison of names and addresses with the voter registration records and certification as required by Neb. RS 17-503. The Board of Trustees shall, within 30 days after the receipt of the remonstrance and certifications from the Election Commissioner or a County Clerk, hold a public hearing to review the remonstrance and certifications and receive testimony regarding them. the Board of Trustees, shall, following the hearing, vote on whether or not the remonstrance is valid and shall uphold the remonstrance if sufficient valid signature have been received.

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

(G) Divisions (A) through (F) shall not apply to the sale of real property if the authorizing resolution directs the sale of an item or items of real property, the total fair market value of which is less than \$5,000. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in 3 prominent places within the village for a period of not less than 7 days prior to the sale of the property, giving a general description of the property offered for sale and the terms and conditions thereof.

(H) Real estate now owned or hereafter owned by the village may be conveyed without consideration to the state for state armory sites or, if acquired for state armory sites, the property shall be conveyed strictly in accordance with the conditions of Neb. RS 18-1001 *et seq.*

(Neb. RS 17-503, 17-503.01) (Ord. 1999-7.27, passed 7-12-1999; Am. Ord. 2004-2.2, passed 2-9-2004)

§ 92.06 SALE AND CONVEYANCE OF PERSONAL PROPERTY.

The power of the village to convey any personal property owned by it shall be exercised by resolution directing the sale and the manner and terms thereof. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in 3 prominent places within the village for a period of not less than 7 days prior to the sale of the property. If the fair market value of the property is greater than \$5,000, notice of the sale shall also be published once in a legal newspaper published in or of general circulation in the village at least 7 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.

(Neb. RS 17-503.2) (Ord. 2004-2.2, passed 2-9-2004)

Public Ways and Property

§ 92.07 ACQUISITION OF PROPERTY; CONSTRUCTION; ELECTIONS, WHEN REQUIRED.

(A) The municipality 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, municipal building, or community house for housing municipal 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 municipality.

(B) Except as provided in division (C) of this section, before any purchase can be made or building erected, the question shall be submitted to the electors of the municipality at a general municipal election or at an election duly called for that purpose, or as set forth in Neb. RS 17-954 and be adopted by a majority of the electors voting on the question.
(Neb. RS 17-953)

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

(1) Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the municipality, 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 municipality equal in number to 15% of the registered voters of the municipality voting at the last regular municipal election held therein and is filed with the Board of Trustees. 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 municipality 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 1 year following the election, be purchased or constructed; or

(2) The Board of Trustees may proceed without providing the notice and right of remonstrance required in division (C)(1) above if the property can be purchased below the fair market value as determined by an appraisal, there is a willing seller, and the purchase price is less than \$25,000. The purchase shall be approved by the Board of Trustees after notice and public hearing as provided in Neb. RS 18-1755.
(Neb. RS 17-953.01) (1994 Code, § 8-106)

§ 92.08 ACQUISITION OF REAL PROPERTY; APPRAISAL.

The municipality shall not purchase, lease-purchase, or acquire for consideration real property having an estimated value of \$100,000 or more unless an appraisal of the property has been performed by a certified real estate appraiser.
(Neb. RS 13-403)

Bennet – General Regulations

§ 92.09 ACQUISITION OF REAL PROPERTY; PUBLIC MEETING.

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

§ 92.10 PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING; REQUIREMENTS.

(A) Except as provided in division (B) of this section, the municipality shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer.

(B) Division (A) of this section shall not apply to the following activities:

(1) Any public works project with contemplated expenditures for the completed project that do not exceed \$80,000;
(Neb. RS 81-3445, 81-3449(3), and 81-3453(3))

(2) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;
(Neb. RS 81-3449(4) and 81-3453(4))

(3) Performance of professional services for itself if the municipality appoints a municipal engineer or employs a full-time person licensed under the Engineers and Architects Regulation Act who is in responsible charge of architectural or engineering work;
(Neb. RS 81-3423, 81-3449(9), and 81-3453(6))

(4) The practice of any other certified trade or legally recognized profession;
(Neb. RS 81-3449(11) and 81-3453(7))

(5) Earthmoving and related work associated with soil and water conservation practices performed on any land owned by the municipality that is not subject to a permit from the Department of Natural Resources;
(Neb. RS 81-3449(13) and 81-3453(12))

(6) The work of employees and agents of the municipality performing, in accordance with other requirements of law, their customary duties in the administration and

Public Ways and Property

enforcement of codes, permit programs, and land use regulations and their customary duties in utility and public works construction, operation, and maintenance;
(Neb. RS 81-3449(14) and 81-3453(13))

(7) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;
(Neb. RS 81-3453(10))

(8) The construction of municipal water wells as defined in Neb. RS 46-1212, the installation of pumps and pumping equipment into municipal water wells, and the decommissioning of municipal water wells, unless the construction, installation, or decommissioning is required by the municipality to be designed or supervised by an engineer or unless legal requirements are imposed upon the municipality as a part of a public water supply; and
(Neb. RS 81-3453(15))

(9) Any other activities described in Neb. RS 81-3449 to 81-3453.
(Ord. 1999-7.28, passed 7-12-1999)

Statutory reference:

Public Service Provider Defined, See Neb. RS 81-3423

§ 92.11 TREES.

No person, or persons, shall plant, or allow to grow, any tree within the sidewalk space without first making a written, or verbal, application to, and receiving a written permit from the Board of Trustees. Any tree planted within the sidewalk space after the adoption date of this section shall be deemed to be unlawfully planted and growing and shall, at the discretion of the Board of Trustees, be deemed to be a nuisance. When any tree is declared to be a nuisance, the Board of Trustees shall order, with proper notice, the tree removed at the expense of the owner of the property adjacent to the sidewalk space upon which the tree has been unlawfully planted. If the property owner fails, or neglects, to remove, or cause to be removed, the tree, the Board of Trustees shall order the same removed and assess the expense of the removal against the property adjacent to the sidewalk space wherein the tree is planted and growing. In the event the property owner is a nonresident of the county in which the property lies, the municipality 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. The last known address shall be that address listed on the current tax rolls at the time the required notice was first published. No fee shall be charged for the permit, and nothing in this section shall be construed to apply to any existing trees now growing within the sidewalk space.
(Neb. RS 17-557.01, 18-1720) (1994 Code, § 8-103)

Bennet – General Regulations

SIDEWALKS

§ 92.25 KEPT CLEAN.

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud, or other substance to remain upon the sidewalk. All sidewalks within the business district shall be cleaned within 5 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, provided that sidewalks within the residential areas of the municipality shall be cleaned within 24 hours after the cessation of the storm.
(1994 Code, § 8-201) Penalty, See § 10.99

Statutory reference:

Authority to Regulate, See Neb. RS 17-557

§ 92.26 MAINTENANCE.

Every owner of any lot, lots, or piece of land within the corporate limits shall at all times keep and maintain the sidewalk along and contiguous to the lot, lots, or pieces of land, as the case may be, in good and proper repair, and in a condition reasonably safe for travel for all travelers thereon. In the event that the owner or owners of any lot, lots, or lands, abutting on any street, avenue, or part thereof shall fail to construct or repair any sidewalk in front of his, her, or their lot, lots, or lands, within the time and in the manner as directed and required herein after having received due notice to do so, they shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk, and the Board of Trustees shall have power to cause any sidewalks to be constructed or repaired and assess the costs thereof against the property. In the event the property owner is a nonresident of the county in which the property lies, the municipality 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. The last known address shall be that address listed on the current tax rolls at the time the required notice was first published.
(1994 Code, § 8-202) Penalty, See § 10.99

§ 92.27 REPAIR.

The municipal official in charge of sidewalks may require sidewalks of the municipality to be repaired. Notice to the owners of property upon which the sidewalks in disrepair are located shall require within 48 hours from issuance of notice the owners to make arrangements to have the sidewalk repaired. The repairs shall be completed within 21 days after issuance of the notice. No special assessment shall be levied against the property unless the owner neglects or refuses to repair within the

Public Ways and Property

time prescribed and in the event that the owner fails to repair, the municipality shall cause the repairs to be made and assess the property owner the expense of the repairs. In the event the property owner is a nonresident of the county in which the property lies, the municipality 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. The last known address shall be that address listed on the current tax rolls at the time the required notice was first published.

(1994 Code, § 8-203)

§ 92.28 CONSTRUCTION AT OWNER'S INITIATIVE.

(A) Any person desiring to construct, or cause to be constructed, any sidewalk shall do so only as herein provided. It shall be unlawful for any person to construct any sidewalk without first having obtained a permit.

(B) The owner shall make application in writing for a permit and file the application in the office of the Municipal Clerk/Treasurer. The permit shall give a description of the lot or piece of land along which the sidewalk is to be constructed. The official in charge of sidewalks shall issue the desired permit unless good cause shall appear why the permit should be denied, provided that if it is desired to construct the sidewalk at any other than the regularly prescribed location, grade, or elevation, the municipal official in charge of sidewalks shall submit the application to the Board of Trustees who shall determine whether the permit should be granted or denied. It shall be unlawful for any person to construct, or cause to be constructed the sidewalk at any other location, grade, or elevation than so designated by the municipality. 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 municipal official in charge of sidewalks.

(1994 Code, § 8-204) Penalty, See § 10.99

§ 92.29 CONSTRUCTION AT MUNICIPAL DIRECTION.

(A) The Board of Trustees may, by resolution, order the construction of a sidewalk on any lot or piece of ground within the municipality. Notice of the Board of Trustees' intention to construct the sidewalk shall be given by the Municipal Clerk/Treasurer by publication of notice 1 time in a legal newspaper of general circulation in the municipality.

(B) A copy of the notice shall be personally served upon the occupant in possession of the property, or, when personal service is not possible, the notice shall be posted upon the premises 10 days prior to the commencement of construction. The notice required in this section shall be prepared by the Municipal Attorney in accordance with the provisions of this section. The service shall include a form of return evidencing personal service or posting as herein required.

(C) (1) The notice shall notify the owner of the premises of the passage of the resolution ordering the owner to construct or cause to be constructed a sidewalk within 30 days after the date of

Bennet – General Regulations

publication, and further that if the owner fails to construct the sidewalk or cause the same to be done within the time allowed, the municipality will cause the sidewalk to be constructed, and the cost thereof shall be levied and assessed as a special tax against the premises, provided that the notice shall contain the official estimate of the cost of construction, and no special assessment in excess of this estimate shall be assessed against the property.

(2) In the event the property owner is a nonresident of the county in which the property lies, the municipality 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.

(3) The last known address shall be that address listed on the current tax rolls at the time the required notice was first published.
(1994 Code, § 8-205)

Statutory reference:

Authority to Construct and Repair, See Neb. RS 17-522 through 17-524

Authority to Construct or Otherwise Improve through Sidewalk District, See Neb. RS 19-2417 through 19-2419

STREETS

§ 92.45 NAMES AND NUMBERS.

The Board of Trustees may at any time, by ordinance, rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along the streets shall retain the numbers as the Board of Trustees may require. It shall be the duty of the municipal official in charge of streets, upon the erection of any new building or buildings, to assign the proper numbers to the building or buildings and give notice to the owner or owners and occupant or occupants of the same.

(1994 Code, § 8-301) Penalty, See § 10.99

Statutory reference:

Authority to Improve, See Neb. RS 17-509

§ 92.46 CUTTING INTO PAVING, CURB, OR SIDEWALK.

(A) It shall be unlawful for any person to cut into any paving, curb, or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained a written permit therefor from the village. The application for a permit shall be filed with the Village Clerk, in writing, on forms approved by the Village Clerk, showing the place where the cutting is to be

Public Ways and Property

done, and it shall be the Utilities Superintendent's duty to inspect the place of entry into the paving, sidewalk, or curb, before the same is cut. Before any permit is issued by the Village Clerk, the applicant shall deposit with the Village Clerk a sum as may be set by resolution of the Village Board for all paving, curb, or sidewalk to be cut. The sum shall be set on a per linear foot cost of construction for curb cuts and a per square foot cost of construction for paving and sidewalk cuts. The deposit shall be retained by the village until the work is completed to the satisfaction of the Utilities Superintendent, and if not satisfactorily completed with a reasonable time, the village may proceed to complete the work itself and retain the deposit for the purpose of defraying the cost of the work.

(B) When cutting into any paving, it shall be the duty of the party to cut the paving under the rules and regulations as may be prescribed by the Village Engineer. When the applicant has completed the opening made, the applicant shall inform the Utilities Superintendent, who shall supervise and inspect the materials used and the work done.

(C) Notwithstanding the above, it shall be discretionary with the village to order the Utilities Superintendent to perform the work of cutting the paving and charge the cost thereof to the permittee. In the event that the village elects to have the work performed by the Utilities Superintendent, the required deposit shall be retained by the village for the purpose of replacing the paving, curb, or sidewalk.

(D) No curb cut shall exceed 20 feet in width unless a greater width is specially approved by resolution of the Board of Trustees.
(Ord. 2001-6.1, passed 6-11-2001) Penalty, See § 10.99

Statutory reference:

Authority, See Neb. RS 17-567

§ 92.47 EXCAVATION.

It shall be unlawful for any person to make an excavation in any street or streets for any purpose whatsoever unless a written permit is issued by the Utilities Superintendent authorizing the excavations.

(1994 Code, § 8-302) Penalty, See § 10.99

Statutory reference:

Authority, See Neb. RS 17-557

Bennet – General Regulations

§ 92.48 DRIVING STAKES.

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without first procuring the written consent of the Utilities Superintendent.
(1994 Code, § 8-303) Penalty, See § 10.99

Statutory reference:

Authority, See Neb. RS 17-557

§ 92.49 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.
(1994 Code, § 8-304) Penalty, See § 10.99

Statutory reference:

Authority, See Neb. RS 17-557

§ 92.50 HARMFUL LIQUIDS.

It shall be unlawful for any person to place or permit to leak in the gutter of any street any waste gasoline, kerosene, or high lubricating oils, which damage or act as a solvent upon the streets.
(1994 Code, § 8-305) Penalty, See § 10.99

Statutory reference:

Authority, See Neb. RS 17-557

§ 92.51 HEAVY EQUIPMENT; SPECIAL TIRES.

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 the curb, gutter, bridge, culvert, sidewalks, crosswalk, or crossing with heavy plank sufficient in strength to warrant against the breaking or damaging of the curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing. Hereafter, it shall be unlawful to run, drive, move, operate, or convey over or across any paved street a vehicle, machine, or implement with sharp discs or sharp wheels that bear upon the pavement, with wheels having cutting edges, with wheels having lugs, any protruding parts, or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent, or otherwise injure or damage any pavement, gutter, or curb, provided that, where heavy vehicles, structures, and machines move along paved or unpaved streets, the County Sheriff is hereby authorized and empowered to choose the route over which the moving of the vehicles, structures, or machines will be permitted and allowed. Nothing in this section shall be construed to apply to pneumatic tires with metal or metal-type studs not exceeding 5/16 of an inch in diameter inclusive of the stud-casting with

Public Ways and Property

an average protrusion beyond the tread surface of not more than 7/64 of an inch between November 1 and March 15, provided that school buses and emergency vehicles shall be permitted to use metal or metal-type studs all year; it shall be permissible to use farm machinery with tires having protuberances which will not injure the streets. It shall be permissible to use a rubber tired crane with a fixed load when the vehicle will be transported on a state highway or on any road within the corporate limits of the municipality, the municipality in which the crane is intended to be transported has authorized a 1-day permit for the transportation of the crane and specified the route to be used and the hours during which the crane can be transported, the vehicle is escorted by another vehicle or vehicles assigned by the municipality, and the vehicle's gross weight does not exceed the limits set out in Neb. RS 60-6,294(10), and it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other condition tending to cause a vehicle to slide or skid.

(1994 Code, § 8-306) Penalty, See § 10.99

Statutory reference:

Rubber-tired cranes, See Neb. RS 60-6,288(2)(j)

Tire requirements, See Neb. RS 60-6,250

Bennet – General Regulations

CHAPTER 93: ANIMALS

Sections:

General Provisions

- 93.01 Definitions
- 93.02 Large Animal Permit Requirements
- 93.03 Small Animal and Fowl Permit Requirements
- 93.04 Calculating Minimums and Maximums; Exclusions
- 93.05 Sanitary Regulations
- 93.06 Exemptions
- 93.07 Application for Permit
- 93.08 Issuance of Permit
- 93.09 Permit Fees
- 93.10 Revocation and Suspension of Permit
- 93.11 Term of Permit; not Transferable
- 93.12 Running at Large Prohibited
- 93.13 Dead Animals; Duty to Remove
- 93.14 Dead Animals; Unlawful Acts
- 93.15 Offensive Odors from Enclosures in Which Animals are Kept
- 93.16 Animals on Premises as of Effective Date; Nuisance
- 93.17 Unusual Animals Prohibited

Dogs; General Provisions

- 93.25 Owner Defined
- 93.26 Running at Large
- 93.27 Rabies Threat; Proclamation; Inspection
- 93.28 Capture Impossible
- 93.29 Dangerous Dogs
- 93.30 Liability of Owner
- 93.31 Impounding
- 93.32 Barking

Dogs; Licensing

- 93.45 License Required
- 93.46 Dog Guides, Hearing Aid Dogs, and Service Dogs; Exempt from License Tax
- 93.47 License Tags
- 93.48 Wrongful Licensing
- 93.49 Uncollared Dogs

Bennet – General Regulations

93.50 Removal of Tags

93.51 Kennels; License

Cats; Licensing

93.52 Cats; License Required; Fees; Application; Rabies Certificate

93.53 Cats; License Tags; Duplicates

93.54 Cats; Running at Large

93.55 Cats; Impounding

GENERAL PROVISIONS

§ 93.01 DEFINITIONS.

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

ANIMALS. Any vertebrate member of the animal kingdom excluding man.

FOWL. Chickens, ducks, geese, turkeys, pigeons, pheasants, quail, partridge, guineas, or other domesticated or wild birds.

LARGE ANIMALS. Cattle, horses, mules, sheep, goats, swine, llamas, or any other domesticated animals weighing more than 20 pounds (typical adult weight), except pet animals or fowl.

PET ANIMALS. Dogs, cats, birds, guinea pigs, hamsters, mice, snakes, iguana, and turtles. Pet animals shall also include domesticated animals, other than those listed above, weighing 20 pounds or less (typical adult weight) that are typically owned or sold, or offered for sale, as indoor household pets, not including unusual animals as defined in Section 93.17 of this Code.

SMALL ANIMALS. Any animal, including rabbits, weighing 20 pounds or less (typical adult weight), except pet animals or fowl.
(1994 Code, § 6-201) (Ord. 2004-5.1, passed 5-17-2004; Am. Ord. 2012-8.1 § 1, passed 10-8-2012)

§ 93.02 LARGE ANIMAL PERMIT REQUIREMENTS.

It shall be unlawful to keep any large animal within the limits of the village without having procured a permit therefor and without adhering to the following requirements:

(A) The minimum premise area or lot size upon which any large animal is kept shall be the area set forth in the following table:

Animals

<i>Number of Large Animals</i>	<i>Minimum Acres Required</i>
1-2	1
3 or more	1.5 acres per animal

(B) Every large animal kept upon such premise or lot shall be kept confined within an exercise area, corral, pen, shelter structure, or pasture; provided, however, that no exercise area, corral, pen, shelter structure, or pasture shall be nearer than 75 feet to any building or structure used for residential purposes, either when located on the same lot or plot of ground or on adjoining property. (Ord. 2004-5.1, passed 5-17-2004) Penalty, See § 10.99

§ 93.03 SMALL ANIMAL AND FOWL PERMIT REQUIREMENTS.

(A) It shall be unlawful for any person to keep or harbor small animals or fowl, without a permit, in numbers equal to or greater than the minimum provided in the table in division (B).

(B) It shall be unlawful for any person to keep or harbor small animals or fowl as follows:

- (1) In numbers greater than the maximum provided in the following table;
- (2) Within pens, enclosures or shelters closer than 50 feet to a neighboring residence; or
- (3) Within pens, enclosures or shelters closer than five feet to a neighboring property line.

<i>Property Size</i>	<i>Minimum and Maximum Number of Small Animals or Fowl</i>	<i>Exercise/Shelter Area (Square Feet)</i>
1 acre or less	Rabbits or other small animals 3-20	3 times number of small animals
	Bantam, miniatures or other fowl weighing less than 3 lbs. 7-30	2 times number of fowl
	Chickens, ducks or other fowl weighing 3 - 5 lbs. 3-20	3 times number of fowl
	Pigeons 14-200	1 times number of pigeons

Bennet – General Regulations

	Turkey, geese or other fowl weighing 5 - 20 lbs. 2-5	7 times number of fowl
For each additional 1 acre	2 times the number per each category	Same as above

(Ord. 2004-5.1, passed 5-17-2004) Penalty, See § 10.99

§ 93.04 CALCULATING MINIMUMS AND MAXIMUMS; EXCLUSIONS.

In calculating the minimum and maximum numbers of animals for purposes of §§ 93.02 and 93.03, such numbers shall not include:

(A) Large animals under the age of 180 days if the animal's biological parent is lawfully kept upon the premises.

(B) Small animals under the age of 60 days or kept within a dwelling.

(C) Fowl under the age of 30 days or kept within a dwelling.

(Ord. 2004-5.1, passed 5-17-2004)

§ 93.05 SANITARY REGULATIONS.

The owner of any large or small animal or fowl shall keep all pens, enclosures, and shelter structures wherein such animals or fowl are kept in a clean and sanitary condition so as not to give off offensive odors which are a source of discomfort to persons residing in the vicinity thereof. The owner of any large or small animal or fowl shall not allow offal, manure, and waste material of such animal to accumulate or remain in the pens, enclosures, and shelter areas, excluding pasture acreage, upon which such animal or fowl resides or is confined in any manner which is conducive to the breeding or attraction of flies, mosquitoes, or other noxious insects or in any manner which endangers the public health or safety or which creates an unhealthy environment. The maintenance or permitting of any of the foregoing conditions on any such lot or parcel of ground is hereby declared to be a public nuisance. The owner of any large or small animal or fowl shall in a sanitary manner remove or dispose of all offal, manure, and waste material accumulating from such animal or fowl at least once every seven days. The flooring or pads of all such pens, enclosures, and shelters shall be of a hard-surface material if the total area of the premises is less than 7,500 square feet.

(Ord. 2004-5.1, passed 5-17-2004)

§ 93.06 EXEMPTIONS.

The provisions of §§ 93.02 and 93.03 shall not apply to:

Animals

- (A) Commercial establishments killing and processing animals under federal inspection;
- (B) Animal research facilities;
- (C) Farmsteads of 20 acres or more;
- (D) Animal shelters;
- (E) Animal hospitals operated by veterinarians duly licensed under the laws of the state;
- (F) Owners of raptors licensed under the laws of the state;
- (G) Wildlife rescue organizations licensed by the federal government or state; and
- (H) Educational institutions created by law or incorporated for that purpose.

(Ord. 2004-5.1, passed 5-17-2004)

§ 93.07 APPLICATION FOR PERMIT.

Application for a permit to keep any large or small animals, or fowl shall be made to the Village Clerk, in writing, upon forms provided for that purpose by the Village Clerk. The application shall contain the following information in addition to such other information as the Village Clerk may desire:

- (A) Name and residence of applicant;
- (B) Location of premises where large or small animals or fowl are to be kept;
- (C) Species of large or small animals or fowl to be kept;
- (D) Number of large or small animals or fowl to be kept;
- (E) Statement of the method in which offal, manure and waste material accumulating from such large or small animals or fowl will be sanitarily disposed of; and
- (F) An attached diagram or plat of premises, showing dimensions of premises, the location and dimensions of the enclosure, corral, pen, or shelter, and the distance from residence buildings, and property lot line, either on the same lot or on adjacent property.

(Ord. 2004-5.1, passed 5-17-2004)

Bennet – General Regulations

§ 93.08 ISSUANCE OF PERMIT.

Prior to the issuance of any permit for the keeping of large or small animals or fowl, the Village Clerk shall investigate the application for the permit and determine whether the premises conform to the requirements of this chapter and other ordinances of the village with respect to zoning and building regulations, sanitation, and location of enclosures and shelters. No permit shall be issued by Village Clerk until proper facilities are provided for the care and protection of the large or small animals or fowl to be cared for on the premises and the location of the premises is deemed to be proper and suitable for the keeping of such large or small animals or fowl and the application has been approved as to proper zoning.

(Ord. 2004-5.1, passed 5-17-2004)

§ 93.09 PERMIT FEES.

(A) A permit shall be issued to keep or harbor large or small animals or fowl upon the finding that the applicant satisfies the requirements of this chapter and upon payment of a fee of \$10.

(B) Fees shall be per premises covered regardless of the number of animals or fowl to be kept or harbored. A permit holder who fails to renew the permit within 30 days of the permit expiration date shall pay a late fee of \$10 in addition to the annual permit fee.

(Ord. 2004-5.1, passed 5-17-2004)

§ 93.10 REVOCATION AND SUSPENSION OF PERMIT.

Any permit issued to keep any large or small animal or fowl shall be subject to revocation or suspension by the Village Clerk for violation by the permittee of any of the provisions of this chapter, or other ordinances of the village with respect to the keeping of large or small animals or fowl, now in effect or hereafter enacted.

(Ord. 2004-5.1, passed 5-17-2004)

§ 93.11 TERM OF PERMIT; NOT TRANSFERABLE.

All permits issued to keep any large or small animal or fowl shall expire on May 31 following the date of issuance, unless sooner revoked, and no permit shall be assignable or transferable either as to permittee, location, or species of animals.

(Ord. 2004-5.1, passed 5-17-2004)

§ 93.12 RUNNING AT LARGE PROHIBITED.

No person keeping or harboring any animal or fowl shall permit such animal or fowl except pigeons to go loose or run at large in any of the public ways of the village or upon the property of

Animals

another, except in enclosures on the private property owned or leased by the person keeping or harboring such animal or fowl. In the event that an unusual or other nondomesticated or wild animal found running at large is creating a hazard to life or property, such animal shall be destroyed if it cannot be confined or captured. The village shall not be required to give notice to the owner of such an animal prior to its destruction.

(Ord. 2004-5.1, passed 5-17-2004) Penalty, See § 10.99

§ 93.13 DEAD ANIMALS; DUTY TO REMOVE.

Except as permitted by § 93.14(B), if any animals or fowl shall die in the possession of any person in this village, it shall be the duty of such person to cause the same to be at once removed to a site approved by the village and buried or otherwise disposed of. In case the owner or person having charge of any such animal or fowl shall neglect or refuse to remove the dead animal or fowl within 24 hours after its death, the village shall cause the same to be removed at the expense of such owner or person having charge of the same, such expenditure to be recovered in a civil action. Whenever the owner or other person having charge of any dead animal or fowl cannot be found, it shall be the duty of the village to cause the animal to be removed and buried at the expense of the village.

(Ord. 2004-5.1, passed 5-17-2004) Penalty, See § 10.99

§ 93.14 DEAD ANIMALS; UNLAWFUL ACTS.

(A) Except as permitted by division (B) below, it shall be unlawful for any person to deposit or bury on any of the streets or alleys or other places within the corporate limits of the village, or cause to be buried, any carcass of any dead animal or fowl of any kind, and it shall be unlawful for the owner or person having possession of any animal that shall die to suffer the carcass of any such animal to remain within the corporate limits of the village for more than 24 hours after the death of the animal or fowl.

(B) Nothing in this section shall prevent burial of any dog, cat, or other animal on the residential premises of the owner of such animal if such animal weighs less than 150 pounds and the animal is a household pet. Any such animal shall be buried within 24 hours after its death, and all parts of any animal shall be covered by at least 2 feet of fine soil.

(Ord. 2004-5.1, passed 5-17-2004) Penalty, See § 10.99

§ 93.15 OFFENSIVE ODORS FROM ENCLOSURES IN WHICH ANIMALS ARE KEPT.

It shall be unlawful for any person or persons to keep any cattle, horses, goats, dogs, cats, rabbits, or other animals, chickens, ducks, geese, turkeys, or any other fowl in any pen, shed, or yard within the village from which any deleterious or offensive odor shall be emitted; and the maintaining of any of the above-mentioned animals or fowl in such condition shall of itself constitute a nuisance.

(Ord. 2004-5.1, passed 5-17-2004) Penalty, See § 10.99

Bennet – General Regulations

§ 93.16 ANIMALS ON PREMISES AS OF EFFECTIVE DATE; NUISANCE.

Notwithstanding any of the provisions of this chapter to the contrary, any animals lawfully kept or harbored on premises within the limits of the Village as of the effective date of this chapter, or any amendment thereto, may lawfully be kept or harbored upon such premises notwithstanding that the requirements of § 93.02 regarding a minimum acreage for large animals or § 93.03 regarding maximum numbers of animals or square footage requirements for exercise/shelter areas for small animals or fowl are not met for a period of not to exceed sixty (60) days from the effective date of the adoption of the provision declaring the keeping or harboring of such animals to be unlawful. This exclusion shall not exempt the owner from the requirement that a permit to maintain such animals be obtained in accordance with the provisions of this chapter and that appropriate permit fees are paid. Except as provided above, animals kept or harbored on premises within the limits of the Village in violation of any of the provisions of this chapter are declared to be a nuisance and such nuisance may be abated by the Village in accordance with Neb. Rev. Stat. § 18-1720 (Reissue 2007). (Ord. 2004-5.1, passed 5-17-2004; Am. Ord. 2012-8.1 § 2, passed 10-8-2012)

§ 93.17 UNUSUAL ANIMALS PROHIBITED.

(A) It shall be unlawful for any person or persons to own, keep, or harbor any unusual animal within the corporate limits of the Village of Bennet, Nebraska, except that this section shall not be construed to prohibit a public zoo, circus, humane society, or carnival from displaying unusual animals as exhibits, or to prohibit any wildlife rescue organizations with appropriate permits from the Nebraska Game and Parks Commission from rehabilitating or sheltering unusual animals.

(B) It shall be unlawful for any person or persons to sell, give away, transfer, or import into the Village of Bennet, Nebraska, any unusual animal as defined in this section, excluding a public zoo from doing business with another public zoo.

(C) In the event the Municipal Clerk/Treasurer or Animal Control Officer determines an unusual animal is being owned, kept, or harbored by any person in violation of this section, the Municipal Clerk/Treasurer or Animal Control Officer may have the person prosecuted for the violation and may order the person to remove the unusual animal from the Village of Bennet, Nebraska, or destroy it. The order shall be contained in a written notice to remove or destroy the unusual animal within 10 days and shall be delivered in person or by certified mail, return receipt requested. If the owner or person keeping or harboring of the unusual animal shall have failed to remove or destroy the unusual animal after the expiration of 10 days from the receipt of the notice and no appeal is taken to the Village Board of Trustees, the Board of Trustees shall cause the unusual animal to be destroyed.

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

DOMESTICATED. A tame animal that is subject to the dominion and control of an owner or person keeping or harboring the animal, and accustomed to living in or near human habitation

Animals

without requiring extraordinary restraint for the protection of humans or unreasonably disturbing the human habitation.

UNUSUAL ANIMAL. Any poisonous or potentially dangerous animal not normally considered domesticated, and shall include animals prohibited by the Village of Bennet, State of Nebraska, or federal requirements, and also:

(a) Class mammalia; order carnivora, family felidae (such as lions, tigers, jaguars, leopards, bobcats, and cougars), except commonly accepted domesticated cats and hybrids involving the same; family canidae (such as wolves, coyotes, and fox), except domesticated dogs and hybrids involving the same; family mustelidae (such as weasels, martins, fishers, skunks, wolverines, mink, and badgers), except ferrets; family procyonidae (such as raccoon); family ursidae (such as bears); order primata (such as monkeys and chimpanzees); and order chiroptera (such as bats);

(b) Poisonous reptiles, cobras, and their allies (elapidae, hydrophiidae); vipers and their allies (crotilidae, viperidae); boomslang and kirkland's tree snake; and gila monster (heleodermatidae); and

(c) Nonpoisonous reptiles or snakes that will grow to more than 6 feet in length at maturity.

(Ord. 2000-10.1, passed 10-10-2000) Penalty, See § 10.99

DOGS; GENERAL PROVISIONS

§ 93.25 OWNER DEFINED.

Any person who shall harbor or permit any dog to be for 10 days or more in or about his or her house, store, or enclosure, or to remain to be fed, shall be deemed the **OWNER** and possessor of the dog and shall be deemed to be liable for all penalties herein prescribed.

(Neb. RS 54-606) (1994 Code, § 6-103)

§ 93.26 RUNNING AT LARGE.

It shall be unlawful for the owner of any dog to allow such dog to run at large at any time within the corporate limits of the Village. It shall be the duty of the Utilities Superintendent or any law enforcement officer to cause any dog found to be running at large within the Village to be taken up and impounded. "Running at Large" shall mean any dog found off the premises of the owner, and not under control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage, or other suitable means of physical restraint. An electronic pet containment system shall be considered a suitable means of physical restraint provided that signs or markings clearly show that such a system has been installed on the premises.

(1994 Code, § 6-105) (Am. Ord. 2006-3.2, passed 3-16-2006) Penalty, See § 10.99

Bennet – General Regulations

Statutory reference:

Authority, See Neb. RS 17-526

Dog collars See required, See Neb. RS 54-605

§ 93.27 RABIES THREAT; PROCLAMATION; INSPECTION.

(A) (1) It shall be the duty of the Board of Trustees whenever in its opinion the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog to muzzle the same, or to confine it for a period of not less than 30 days or more than 90 days from the date of the proclamation, or until the danger is passed.

(2) The dogs may be harbored by any good and sufficient means in a house, garage, or yard on the premise wherein the owner may reside.

(3) Upon issuing the proclamation it shall be the duty of all persons owning, keeping, or harboring any dog to confine the same as herein provided.
(1994 Code, § 6-104)

(B) Any dog suspected of being afflicted with rabies, or any dog not vaccinated in accordance with the provisions of this chapter 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 not less than 10 days. If upon examination by a veterinarian, the dog has no clinical signs of rabies at the end of the 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 dog has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least 10 days, at which time the dog shall be examined by a licensed veterinarian at the owner's expense. If no signs of rabies are observed, the dog may be released from confinement.
(1994 Code, § 6-111)

Statutory reference:

Similar provisions, See Neb. RS 71-4406

§ 93.28 CAPTURE IMPOSSIBLE.

The County Sheriff or designated Animal Control Officer shall have the authority to kill any animals showing vicious tendencies, or characteristics of rabies which make capture impossible because of the danger involved.
(1994 Code, § 6-106) Penalty, See § 10.99

Animals

§ 93.29 DANGEROUS DOGS.

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

ANIMAL CONTROL AUTHORITY. An entity authorized to enforce the animal control laws of the municipality.

ANIMAL CONTROL OFFICER. Any individual employed, appointed, or authorized by an animal control authority for the purpose of aiding in the enforcement of this section or any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals and shall include any state or local law enforcement or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

DANGEROUS DOG. Any dog that, according to the records of the animal control authority:

- (a) Has killed or inflicted severe injury on a human being on public or private property;
- (b) Has killed a domestic animal without provocation while the dog was off the owner's property; or
- (c) Has been previously determined to be a potentially dangerous dog by an animal control authority and the owner has received notice of the determination and the dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals. A dog shall not be defined as a **DANGEROUS DOG** if the threat, any injury that is not a severe injury, or the damage was sustained by a person who, at the time, was committing a willful trespass as defined in Neb. RS 20-203, 28-520, or 28-521 or any other tort upon the property of the owner of the dog, who was tormenting, abusing, or assaulting the dog, who has, in the past, been observed or reported to have tormented, abused, or assaulted the dog, or who was committing or attempting to commit a crime.

DOMESTIC ANIMAL. A cat, a dog, or livestock.

OWNER. Any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a dog.

POTENTIALLY DANGEROUS DOG.

- (a) Any dog that when unprovoked:
 - 1. Inflicts a nonsevere injury on a human or injures a domestic animal either on public or private property; and/or

Bennet – General Regulations

2. Chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack.

(b) 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.

SEVERE INJURY. Any physical injury that results in disfiguring lacerations requiring multiple sutures or cosmetic surgery or 1 or more broken bones or that creates a potential danger to the life or health of the victim.

(Neb. RS 54-617) (1994 Code, § 6-113)

(B) *Restraint.* No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless the dog is restrained securely by a chain or leash.

(Neb. RS 54-618) (1994 Code, § 6-114)

(C) *Confinement.* 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. The pen or structure shall also protect the dog from the elements. 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.

(Neb. RS 54-619) (1994 Code, § 6-115)

(D) *Failure to comply.*

(1) Any dangerous dog may be immediately confiscated by an Animal Control Officer if the owner is in violation of this section. The owner shall be responsible for the reasonable costs incurred by the animal control authority for the care of a dangerous dog confiscated by an Animal Control Officer 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 section.

(Neb. RS 54-620)

(2) 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. RS 54-621) (1994 Code, § 6-116)

(E) *Additional regulations.* Nothing in this section shall be construed to restrict or prohibit the Board of Trustees from establishing and enforcing laws or ordinances at least as stringent as the provisions of divisions (A) through (D).

(Neb. RS 54-624) Penalty, See § 10.99

Animals

§ 93.30 LIABILITY OF OWNER.

It shall be unlawful for any person to allow a dog owned, kept, or harbored by the owner, 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 the 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.

(1994 Code, § 6-108) Penalty, See § 10.99

Statutory reference:

Joint liability, See Neb. RS 54-602

Statutory liability, See Neb. RS 54-601

§ 93.31 IMPOUNDING.

It shall be the duty of the Utilities Superintendent to capture, secure, and impound in a humane manner any dog violating any of the provisions of this chapter. The dogs so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Impounded dogs bearing a current license issued by the Village shall be kept and maintained at the Village animal shelter for a period of not less than three (3) days after public notice has been given unless reclaimed earlier by the owner. Any dog not bearing a current license by the Village may be immediately impounded at the Capital Humane Society or other impoundment facility. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at the office of the Village Clerk/Treasurer within twenty-four (24) hours after impoundment as public notification of the impoundment. 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 Board of Trustees and on file at the office of the Village Clerk/Treasurer. The owner of any unvaccinated dog shall, in addition to the payment of such fees, comply with the licensing requirements of the Village and the rabies vaccination requirements of Neb. Rev. Stat. § 77-4401 *et seq.* within seventy-two (72) hours after release. Any dog not claimed at the end of the required waiting period after public notice, and not previously impounded at the Capital Humane Society or other impoundment facility, shall be transferred to the Capital Humane Society or such other impoundment facility and, if the dog remains unclaimed at the end of five days from its original impoundment, the Village may dispose of the dog in a humane fashion.

(1994 Code, § 6-110) (Am. Ord. 2006-3.2, passed 3-13-2006)

Statutory reference:

Pounds authorized, See Neb. RS 17-548

Pounds created by rabies control authorities, See Neb. RS 71-4408

Bennet – General Regulations

§ 93.32 BARKING.

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. The provisions of this section shall not be construed to apply to the Village Dog Shelter.

(Neb. RS 17-526) (1994 Code, § 6-107) (Am. Ord. 2006-3.2, passed 3-13-2006)

DOGS; LICENSING

§ 93.45 LICENSE REQUIRED.

Any person who shall own, keep, or harbor a dog over the age of 6 months within the municipality shall within 30 days after acquisition of the dog acquire a license for each dog annually by or before April 1 of each year. Licenses shall be issued by the Village Clerk/Treasurer upon the payment of a license tax of \$5 for each dog, provided that the tax shall be \$7 for each dog for every license issued after the tax has become delinquent. The tax shall be delinquent from and after April 10, provided that the possessor of any dog brought into or harbored within the corporate limits subsequent to April 1 of any year, shall be liable for the payment of the dog tax levied herein and the tax shall be delinquent if not paid within 10 days thereafter. The license shall not be transferable, and no refund will be allowed in case of death, sale, or other disposition of the licensed dog. The owner shall state at the time the application is made and upon printed forms provided for the purpose his or her name and address and the name, breed, color, and sex of each dog owned and kept by the owner. A certificate 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.

(1994 Code, § 6-101; Am. Ord. 2007-5.1, passed 5-14-2007) Penalty, See § 10.99

Statutory reference:

Authority, See Neb. RS 17-526 and 54-603

§ 93.46 DOG GUIDES, HEARING AID DOGS, AND SERVICE DOGS; EXEMPT FROM LICENSE TAX.

Every dog guide for a blind or visually impaired person, hearing aid dog for a deaf or hearing impaired person, and service dog for a physically limited person shall be licensed as required by the municipal code, but no license tax shall be charged upon a showing by the owner that the dog is a graduate of a recognized training school for dog guides, hearing aid dogs, or service dogs. Upon the retirement or discontinuance of the dog as a dog guide, hearing aid dog, or service dog, the owner of the dog shall be liable for the payment of the required license tax.

Animals

Statutory reference:

Statutory fee exemption, See Neb. RS 54-603

§ 93.47 LICENSE TAGS.

(A) Upon the payment of the license tax, the person designated by the licensing authority shall issue to the owner of a dog a license certificate and a metallic tag for each dog so licensed. The metallic tags shall be properly attached to the collar or harness of all dogs so licensed and shall entitle the owner to keep or harbor the dog until March 31 following the licensing.

(B) In the event that a license tag is lost and upon satisfactory evidence that the original tag was issued in accordance with the provisions herein, the person designated by the licensing authority 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 set by resolution of the Board of Trustees for each duplicate or new tag so issued. All license taxes and collections shall be immediately credited to the general fund. It shall be the duty of the person designated by the licensing authority to issue tags of a suitable design that are different in appearance each year.

(1994 Code, § 6-102; Am. Ord. 2007-5.1, passed 5-14-2007)

Statutory reference:

Authority, See Neb. RS 17-526 and 54-603

§ 93.48 WRONGFUL LICENSING.

It shall be unlawful for the owner, keeper, or harbinger of any dog to permit or allow the dog to wear any license, metallic tag, or other municipal identification than that issued by the Municipal Clerk/Treasurer for dogs, nor shall the owner, keeper, or harbinger wrongfully and knowingly license an unneutered dog with a license prescribed for a neutered dog.

Penalty, See § 10.99

§ 93.49 UNCOLLARED DOGS.

All dogs found running at large upon the streets and public grounds of the municipality without a collar or harness are hereby declared a public nuisance. Uncollared dogs found running at large shall be destroyed or impounded by the person so designated by the Board of Trustees.

Statutory reference:

Similar provisions, See Neb. RS 54-605

Bennet – General Regulations

§ 93.50 REMOVAL OF TAGS.

It shall be unlawful for any person to remove or cause to be removed, the collar, harness, or metallic tag from any licensed dog without the consent of the owner, keeper, or possessor thereof. (1994 Code, § 6-109) Penalty, See § 10.99

§ 93.51 KENNELS; LICENSE.

(A) Any person who shall own, keep, or harbor 4 or more dogs over the age of 6 months within the municipality shall be deemed to be operating a kennel.

(B) Within 30 days after acquisition of each dog, the owner shall acquire a license for each dog annually by or before the first day of April of each year. Licenses shall be issued by the Municipal Clerk/Treasurer upon the payment of a license fee of \$5 for each dog up to 3 dogs. The license fee for the fourth and any additional dogs shall be \$50 for each dog. License fees not paid before the thirtieth day of April shall be deemed to be delinquent. Upon being deemed to be delinquent, a late penalty of \$10 per license shall be assessed. The licenses shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of a licensed dog.

(C) The owner shall state at the time the application is made and upon printed forms provided for the purpose, his or her name and address and the name, breed, color, and sex of each dog owned and kept by him or her.

(D) A certificate that each 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.

(Neb. RS 17-526, 54-603, 71-4412) (1994 Code, § 6-112)

CATS; LICENSING

§ 93.52 CATS; LICENSE REQUIRED; FEES; APPLICATION; RABIES CERTIFICATE.

Any person who shall own, keep, or harbor a cat over the age of six (6) months within the Village shall, within thirty (30) days after acquisition of the cat, acquire a license for each cat annually by or before April 1 of each year. Licenses shall be issued by the Village Clerk/Treasurer upon the payment of a license tax of Five Dollars (\$5.00) for each cat, provided that the tax shall be Seven Dollars (\$7.00) for each cat for every license issued after the tax has become delinquent. All license taxes shall be credited to the general fund. The tax shall be delinquent from and after April 10, provided that the possessor of any cat brought into or harbored within the corporate limits subsequent to April 1 of any year, shall be liable for the payment of the cat tax levied herein and the tax shall be delinquent if not paid within ten (10) days thereafter. The license shall not be transferable, and no

Animals

refund will be allowed in case of death, sale, or other disposition of the licensed cat. The owner shall state at the time the application is made and upon printed forms provided for the purpose his or her name and address and the name, breed, color, and sex of each cat owned and kept by the owner. A certificate that the cat 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.

(Ord. 2010-9.1 § 1, passed 11-8-2010)

§ 93.53 CATS; LICENSE TAGS; DUPLICATES.

(A) Upon the payment of the license tax, the Village Clerk/Treasurer shall issue to the owner of a cat a license certificate and a metallic tag for each cat so licensed. The metallic tags shall be properly attached to the collar or harness of all cats so licensed and shall entitle the owner to keep or harbor the cat until March 31 following the licensing.

(B) In the event that a license tag is lost and upon satisfactory evidence that the original tag was issued in accordance with the provisions of this Chapter, the Village Clerk/Treasurer shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid.

(C) It shall be the duty of the Village Clerk/Treasurer to issue tags of a suitable design that are different in appearance each year.

(Ord. 2010-9.1 § 2, passed 11-8-2010)

§ 93.54 CATS; RUNNING AT LARGE.

It shall be unlawful for the owner of any cat to allow such cat to run at large at any time within the corporate limits of the Village. It shall be the duty of the Utilities Superintendent or any law enforcement officer to cause any cat found to be running at large within the Village to be taken up and impounded. "Running at Large" shall mean any cat found off the premises of the owner, and not under control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint. An electronic pet containment system shall be considered a suitable means of physical restraint provided that signs or markings clearly show that such a system has been installed on the premises.

(Ord. 2010-9.1 § 3, passed 11-8-2010)

§ 93.55 CATS; IMPOUNDING.

Any cat running at large in violation of any of the provisions of this Chapter is declared to be a public nuisance. It shall be the duty of the Utilities Superintendent to capture, secure, and impound in a humane manner any cat violating any of the provisions of this Chapter. The cats so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Impounded cats bearing a current license issued by the Village shall be kept and maintained at the Village animal shelter for a period of not less than three (3) days after public notice has been given unless reclaimed earlier by the owner. Any cat not bearing a current license issued by the

Bennet – General Regulations

Village may be immediately impounded at the Capital Humane Society or other impoundment facility. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at the office of the Village Clerk/Treasurer within twenty-four (24) hours after impoundment as public notification of such impoundment. Any cat 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 Board of Trustees and on file in the office of the Village Clerk/Treasurer. The owner of any unvaccinated cat shall, in addition to the payment of such fees, comply with the licensing requirements of the Village and the rabies vaccination requirements of Neb. Rev. Stat. § 71-4401 *et seq.* within seventy-two (72) hours after release. Any cat not claimed at the end of the required waiting period after public notice, and not previously impounded at the Capital Humane Society or other impoundment facility shall be transferred to the Capital Humane Society or such other impoundment facility and, if the cat remains unclaimed at the end of five (5) days from its original impoundment, the Village may dispose of the cat in a humane fashion.
(Ord. 2010-9.1 § 4, passed 11-8-2010)

CHAPTER 94: LEISURE AND RECREATION

Sections:

Parks

- 94.01 Operation and funding
- 94.02 Injury to property

PARKS

§ 94.01 OPERATION AND FUNDING.

(A) The municipality owns municipal parks and other recreational areas and causes the same to be operated and maintained by the Utilities Superintendent. The Board of Trustees, for the purpose of defraying the cost of the care, management, and maintenance of such municipal parks and recreational areas may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all taxable property within the corporate limits. The revenue from the tax shall be known as the park fund and shall remain in the custody of the Municipal Clerk/Treasurer.

(B) The Board of Trustees shall have the authority to adopt rules and regulations for the efficient management of the municipal parks and other recreational areas of the municipality. (1994 Code, § 3-401)

Statutory reference:

Levy limits, See Neb. RS 77-3442

Recreation centers and areas generally, See Neb. RS 17-948 through 17-952

§ 94.02 INJURY TO PROPERTY.

(A) It shall be unlawful for any person maliciously or willfully to cut down, injure, or destroy any tree, plant, or shrub in any park.

Bennet – General Regulations

(B) It shall be unlawful for any person to injure or destroy any sodded or planted area or injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the municipal parks and recreational areas. No person shall commit any waste on or litter the municipal parks or other public grounds.

(1994 Code, § 3-402) Penalty, See § 10.99

Statutory reference:

Littering of public and private property, See Neb. RS 28-523

TITLE XI: BUSINESS REGULATIONS

Chapters:

- 110. OCCUPATION TAXES**
- 111. PEDDLERS AND HAWKERS**
- 112. ALCOHOLIC BEVERAGES**

Bennet – Business Regulations

CHAPTER 110: OCCUPATION TAXES

Sections:

Occupation Tax

110.01	Alcoholic Liquor; Refuse Collection; Levy Amount
110.02	Fire Department Fund
110.04	Telecommunications Occupation Tax
110.05	Telecommunications Occupation Tax; Credit; Payment
110.06	Telecommunications Occupation Tax; Reports; Contents
110.07	Collection Date
110.08	Certificates
110.09	Failure to pay

OCCUPATION TAX

§ 110.01 ALCOHOLIC LIQUOR; REFUSE COLLECTION; LEVY AMOUNT.

For the purpose of raising revenue:

(A) There is hereby levied an annual occupation tax equal to two times the amount of the liquor license fee as established by state law on the business of selling or offering for sale alcoholic liquor, whether at wholesale or retail, and including sales for consumption on and off the licensed premises.

(B) Commencing January 1, 2010, there is hereby levied an occupation tax of five percent (5%) on the business of hauling or collecting refuse from premises located within the corporate limits of the Village of Bennet. Any refuse hauler engaging in the business of hauling or collecting refuse within the corporate limits of the Village of Bennet shall first register with the Village Clerk/Treasurer on a form provided by the Village Clerk/Treasurer. On or before the tenth day of each month, every registered hauler shall submit a statement showing the amount of gross receipts received from the business of hauling or collecting refuse from premises within the corporate limits of the Village of Bennet for the immediately preceding calendar month, together with the amount of occupation tax due and owing. The statement of gross receipts and any supporting documentation related thereto shall be subject to audit by the Village Clerk/Treasurer or her designated agent. For purposes of this section, refuse shall mean and include garbage, building rubbish, demolition debris, putrescible waste, commercial waste, industrial waste, waste papers and cardboards, animal, food or vegetable waste, and any other waste matter or material.

Bennet – Business Regulations

(C) This ordinance shall not apply to the hauling of refuse from the Village-owned refuse site in accordance with a contract with the Village.

(1994 Code, § 10-301) (Am. Ord. 2009-7.1 § 1, passed 9-14-2009; Am. Ord. 2009-11.1 § 1, passed 1-11-2010) Penalty, See § 10.99

§ 110.02 FIRE DEPARTMENT FUND.

For the use, support, and benefit of the volunteer fire department, the Village Clerk/Treasurer shall take the proceeds of the occupation tax on fire insurance corporations, companies, and associations and credit them to the special occupation tax fund for benefit of the volunteer fire department.

(1994 Code, § 10-302)

Statutory reference:

Taxing authority, See Neb. RS 35-106

§ 110.03 COMMUNITY ANTENNAE TELEVISION SERVICE; ANNUAL OCCUPATION TAX (Repealed Ord. 2012-5.2, passed 5-14-2012)

§ 110.04 TELECOMMUNICATIONS OCCUPATION TAX.

(A) Commencing May 1, 2008, there is hereby levied upon every person, firm, partnership, corporation, or association engaged in the business of offering or providing telecommunications services to the public for hire in the Village of Bennet (“Telecommunications Service Provider”) an occupation tax of five percent (5%) on the gross receipts resulting from any toll services and charges for basic local exchange services, inter-exchange services, mobile telecommunications services, and other telecommunications services, as more particularly described below:

(1) Basic local exchange services shall include the access and transmission of two-way switched communications within the Village, including local telephone and telecommunications services.

(2) Inter-exchange services shall mean the access and transmission of communications between two or more local exchange areas, provided that such inter-exchange service either (i) originates from an end user within the Village or (ii) terminates with an end user within the Village, and is charged to a service address within the Village, regardless of where the charges are actually paid.

(3) Mobile telecommunications service shall have the meaning set forth in 4 U.S.C. § 124 and shall include, but not be limited to, cellular, radio paging, and mobile radio services charged to a service address within the Village by a customer’s home service provider, as defined in 4 U.S.C. § 124, regardless of where the charges are actually paid.

Occupation Taxes

(4) Any other similar telecommunications services involving any electronic or electromagnetic transmission of messages originating or terminating in the Village and charged to a service address in the Village, regardless of where the charges are actually paid.

(B) Gross receipts shall not include any toll services and charges as follows:

(1) For local carrier access charges, transmission facilities, and switching services provided to telecommunications companies; or

(2) From accounts charged to the United States government or any of its departments, or the State of Nebraska, or any of its agencies, subdivisions, or departments; or

(3) For interstate telecommunications between persons in the Village and persons outside the state.

No part or portion of the tax provided for in this Chapter shall be levied upon or assessed against or taken from any such gross receipts so excepted from the provisions of this Ordinance.
(Ord. 2008-2.1 § 1, passed 4-14-2008)

§ 110.05 TELECOMMUNICATIONS OCCUPATION TAX; CREDIT; PAYMENT.

On or before the last day of each month, each Telecommunications Service Provider shall pay to the Village of Bennet five percent (5%) of the gross receipts as provided for in Section 110.04 from the preceding month as an occupation tax; provided that such Telecommunications Service Provider shall be entitled to a credit for any occupation tax or other similar tax based on gross receipts, satisfactorily documented or verified as paid to any other jurisdiction upon any gross receipts taxed herein. All deferred payments shall draw interest at the rate of one percent (1%) per month. After default for six (6) months, a penalty of five percent (5%) shall be added in addition to the interest charge.

(Ord. 2008-2.1 § 2, passed 4-14-2008)

§ 110.06 TELECOMMUNICATIONS OCCUPATION TAX; REPORTS; CONTENTS.

All Telecommunications Service Providers shall, on the last day of each month, submit to the Village Clerk/Treasurer a full, complete, and detailed statement of the income and gross receipts, omitting any exemptions provided for in Section 110.04, and said statement shall be duly verified and sworn to by the officer or officers in charge of the business. All such Telecommunications Service Providers shall, at any reasonable time during business hours, permit the Village, through its officers, agents, or representatives, to inspect the books and records of any such Telecommunications Service Provider for the purpose of verifying such report or reports.

(Ord. 2008-2.1 § 3, passed 4-14-2008)

Bennet – Business Regulations

§ 110.07 COLLECTION DATE.

(A) Unless specifically provided otherwise, all occupation taxes shall be due and payable as follows:

- (1) Daily occupation taxes shall be due and payable daily.
- (2) Annual occupation taxes shall be due and payable on the first day of May of each year.
- (3) Occupation taxes on establishments holding liquor licenses shall be due and payable upon the date of issuance or renewal of the license.
- (4) Telecommunications occupation taxes shall be due and payable on the last day of each month for the preceding month's gross receipts.

(B) Upon the payment thereof by any person or persons to the Village Clerk/Treasurer, the Clerk/Treasurer shall issue a receipt, properly dated, and specifying the person paying the tax, and the amount paid. All receipts shall be issued in duplicate, with one copy provided to the taxpayer and one retained in the records of the Village. The Village Clerk/Treasurer shall keep an accurate account of all revenue received from such occupation taxes and the revenue so collected shall then be immediately deposited by the Village Clerk/Treasurer into the general fund.
(Neb. RS 17-525) (1994 Code, § 10-303) (Am. Ord. 2008-2.2 § 2, passed 4-14-2008; Am. Ord. 2009-11.1, passed 1-11-2010)

§ 110.08 CERTIFICATES.

The receipt issued after the payment of any occupation tax shall constitute the occupation tax certificate. The certificate shall specify the amount of the tax and the name of the person and business that paid the tax. The occupation tax certificate shall then be displayed in a prominent place or carried in a way as to be easily accessible while business is being conducted.
(1994 Code, § 10-304) (Am. Ord. 2008-2.2 § 3, passed 4-14-2008)

§ 110.09 FAILURE TO PAY.

If any person, company, or corporation fails or neglects to pay the occupation taxes as provided herein on or before the day they become due and payable, the Village may then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of one percent (1%) per month until paid. After default for six (6) months, a penalty of five percent (5%) shall be added in addition to the interest charge.
(1994 Code, § 10-305) (Am. Ord. 2008-2.2 § 4, passed 4-14-2008)

CHAPTER 111: PEDDLERS AND HAWKERS

Sections:

- 111.01 Definition; Regulation; Qualifications; Registration Fee
- 111.02 Hours of Solicitation

§ 111.01 DEFINITION; REGULATION; QUALIFICATIONS; REGISTRATION FEE.

(A) For purposes of this Chapter, the term peddler shall include any person traveling by foot, motor vehicle, or other type of conveyance from residence to residence carrying, conveying, or transporting goods, wares, products, merchandise or provisions of whatever nature, offering and exposing the same for sale, or making sales and delivering such articles to purchasers, or offering to furnish or perform services. Peddler shall also include any person traveling either by foot, motor vehicle, or other type of conveyance from residence to residence taking or attempting to take orders for sale of goods, wares, products, merchandise or provisions of whatever nature for future delivery, or for services to be furnished or performed in the future, whether or not such person has, carries, or exposes for sale a sample of the subject of such sale or whether or not such person is collecting advance payment on such sales.

(B) To prevent the sale of fraudulent, dangerous, and unhealthful goods and services, and to protect the public by maintaining records of the products sold and the persons and companies responsible for such sales, all peddlers shall, before doing business within the municipality, make application for and receive a registration certificate from the Village Clerk/Treasurer. The application forms, supplied by the Clerk/Treasurer, shall contain the following information:

- (1) Name of applicant;
- (2) Address of applicant;
- (3) Telephone number of applicant;
- (4) Name and address of the firm, company or organization employing the applicant;
- (5) Brief description of the nature of the business and goods to be sold or services to be provided;
- (6) If a vehicle is to be used, a description of the same, together with the license number; and
- (7) Current photograph of the applicant.

(C) All registration certificates issued under the provisions of this section shall expire on the date specified in the registration certificate, but in no event later than one (1) year after the issuance of the same. At the time of filing the application, a nonrefundable registration fee of \$25.00 shall be paid to the Village Clerk/Treasurer.

Bennet – Business Regulations

(D) Notwithstanding the above, the conduct of door-to-door sales or taking of orders therefor in conjunction with a charitable solicitation by a not-for-profit organization that is exempt from the payment of income taxes pursuant to § 501(c) of the Internal Revenue Code shall be exempt from the requirements of this Chapter provided that such organization notifies the Village Clerk/Treasurer in writing, in advance, of its intention to conduct such solicitations within the Village and the anticipated date or dates of such solicitations.

(Neb. RS 17-134, 17-525, 17-562) (1994 Code, § 10-201) (Am. Ord. 2009-7.1 § 2, passed 9-14-2009)

§ 111.02 HOURS OF SOLICITATION.

It shall be unlawful for any peddler to solicit any individual between the hours of 6:00 p.m. and 8:00 a.m., unless they have a previous appointment with the resident, or residents, of the premise solicited. It shall be unlawful at any hour for a peddler to solicit without a proper permit on his or her person at all times.

(Neb. RS 17-134, 17-562) (1994 Code, § 10-202) (Am. Ord. 2009-7.1 § 3, passed 9-14-2009) Penalty, See § 10.99

CHAPTER 112: ALCOHOLIC BEVERAGES

Sections:

General Provisions

- 112.01 Definitions
- 112.02 Licenses; Municipal Powers and Duties
- 112.03 Inspections
- 112.04 Citizen Complaints

Regulations

- 112.15 License Required
- 112.16 Location
- 112.17 Dwellings
- 112.18 License Displayed
- 112.19 Licensee Requirements
- 112.20 Liquor License Renewal
- 112.21 Owner of Premises
- 112.22 Employer
- 112.23 Minors and Incompetents
- 112.24 Credit Sales
- 112.25 Spiking Beer
- 112.26 Original Package
- 112.27 Minor's Presence
- 112.28 Hours of Sale
- 112.29 Sanitary Conditions
- 112.30 Hiring Minors
- 112.31 Drinking on Public Property; Possession of Open Alcoholic Beverage Container
- 112.32 Removal of Intoxicated Persons from Public or Quasi-Public Property

GENERAL PROVISIONS

§ 112.01 DEFINITIONS.

All words and phrases used in this chapter are to have the definitions applied thereto, as defined in the Liquor Control Act of the State of Nebraska.
(Neb. RS 53-103) (1994 Code, § 10-101)

§ 112.02 LICENSES; MUNICIPAL POWERS AND DUTIES.

(A) The Board of Trustees is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail, bottle club, or craft brewery licensees carried on within the corporate limits of the municipality.
(Neb. RS 53-134.03)

Bennet – Business Regulations

(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, a bottle club license, or a craft brewery license, the Board of Trustees may make and submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant.
(Neb. RS 53-131(2))

(C) The Board of Trustees, with respect to licenses within the corporate limits of the municipality, has the following powers, functions, duties with respect to retail, bottle club, and craft brewery licenses:

(1) To cancel or revoke for cause retail, bottle club, or craft brewery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the Nebraska Liquor Control Commission;

(2) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act to determine whether any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation adopted by the Board of Trustees has been or is being violated and at such time examine the premises of such licensee in connection with such determination;

(3) To receive a signed complaint from any citizen within its jurisdiction that any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act; or any ordinance, resolution, rule, or regulation relating to alcoholic liquor has been or is being violated and to act upon such complaints in the manner provided in the Act;

(4) To receive retail license fees, bottle club license fees, and craft brewery license fees as provided in Neb. RS 53-124 and pay the same, after the license has been delivered to the applicant, to the Village Clerk/Treasurer;

(5) To examine or cause to be examined any applicant or any retail licensee, bottle club licensee, or craft brewery 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 Board of Trustees 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 § 112.04, it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. The order of cancellation or revocation may be appealed to the Commission within 30 days after the date of the order by filing a notice of appeal with the Commission. The Commission shall handle the appeal in the manner provided for hearing on an application in Neb. RS 53-133;

(7) (a) Upon receipt from the Commission of the notice and copy of application as provided in Neb. RS 53-131, to fix a time and place for a hearing at which the Board of Trustees 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 municipality, 1 time not less than 7 and not more than 14 days before the time of the hearing. The notice shall include, but not be limited

Alcoholic Beverages

to, a statement that all persons desiring to give evidence before the Board of Trustees in support of or in protest against the issuance of such license may do so at the time of the hearing.

(b) The hearing shall be held not more than 45 days after the date of receipt of the notice from the Commission, and after such hearing the Board of Trustees shall cause to be recorded in the minute record of their proceedings a resolution recommending either issuance or refusal of such license. The Village Clerk/Treasurer 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.

(Neb. RS 53-134)

(D) (1) When the Nebraska Liquor Control Commission mails or delivers to the Village Clerk/Treasurer a license issued or renewed by the Commission, the Clerk shall deliver the license to the licensee upon proof of payment of:

(a) The license fee if by the terms of Neb. RS 53-124(5) the fee is payable to the Village Clerk/Treasurer;

(b) Any fee for publication of notice of hearing before the Board of Trustees upon the application for the license;

(c) The fee for publication of notice of renewal, if applicable, as provided in Neb. RS 53-135.01; and

(d) Occupation taxes, if any, imposed by the municipality.

(2) Notwithstanding any ordinance or charter power to the contrary, the municipality shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the municipality in any sum which exceeds 2 times the amount of the license fee required to be paid under the Act to obtain such license.

(Neb. RS 53-132(4)) (Ord. 2000-7.1, passed 7-10-2000)

§ 112.03 INSPECTIONS.

It shall be the duty of the Board of Trustees to cause frequent inspections to be made on the premises of all retail and bottle club licensees. If it is found that any licensee is violating any provision of the Nebraska Liquor Control Act or regulations of the Nebraska Liquor Control Commission, or is failing to observe in good faith the purposes of the Act, the license may be suspended, canceled, or revoked after the licensee has been given an opportunity to be heard by the Board of Trustees.

(Neb. RS 53-146) (1994 Code, § 10-122)

§ 112.04 CITIZEN COMPLAINTS.

Any 5 residents of the municipality shall have the right to file a complaint with the Board of Trustees stating that any retail or bottle club licensee, subject to the jurisdiction of the Board of Trustees, has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant thereto. The complaint shall be in writing in the form prescribed by the

Bennet – Business Regulations

Board of Trustees 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. If the Board of Trustees is satisfied that the complaint substantially charges a violation and that from the fact alleged there is reasonable cause for such belief, it shall set the matter for hearing within 10 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; provided, that the complaint must in all cases be disposed of by the Board of Trustees within 30 days from the date the complaint was filed by resolution thereof, the resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided by law.
(Neb. RS 53-1,114) (1994 Code, § 10-123)

REGULATIONS

§ 112.15 LICENSE REQUIRED.

It shall be unlawful for any person to manufacture for sale, sell, keep for sale, or to barter any alcoholic liquors within the municipality unless the person shall have in full force and effect a license as provided by the Nebraska Liquor Control Act.
(Neb. RS 53-102) (1994 Code, § 10-102) Penalty, See § 10.99

§ 112.16 LOCATION.

It shall be unlawful for any person or persons to own, maintain, manage, or hold open to the public any establishment for the purpose of selling at retail any alcoholic liquor within 150 feet of any church, school, hospital, or home for aged or indigent persons or veterans, their wives or children; provided, this prohibition shall not apply to any location within such distance when the establishment has been licensed by the Nebraska Liquor Control Commission at least 2 years, and to hotels offering restaurant service, regularly organized clubs, or to restaurants where the selling of alcoholic liquors is not the principal business carried on, if the hotel, club, or restaurant were licensed and in operation prior to May 24, 1935. No alcoholic liquor, other than beer, shall be sold for consumption on the premise within 300 feet from the campus of any college within the municipality.
(Neb. RS 53-177) (1994 Code, § 10-103) Penalty, See § 10.99

§ 112.17 DWELLINGS.

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premise which has any access which leads from such premise to any other portion of the same building used for dwelling or lodging purposes, and which is permitted to be used by the public. Nothing herein shall prevent any connection with such premise, and such other portion of the building which is used only by the licensee, his or her family, or personal guests.
(Neb. RS 53-178) (1994 Code, § 10-104) Penalty, See § 10.99

Alcoholic Beverages

§ 112.18 LICENSE DISPLAYED.

Every licensee under the Nebraska Liquor Control Act shall cause his or her license to be framed and hung in plain public view in a conspicuous place on the licensed premise.
(Neb. RS 53-148) (1994 Code, § 10-105)

§ 112.19 LICENSEE REQUIREMENTS.

It shall be unlawful for any person or persons to own an establishment that sells at retail any alcoholic beverages unless the person is a resident of the county in which the premise is located; a person of good character and reputation; a citizen of the United States; a person who has never been convicted of a felony or any Class I misdemeanor pursuant to Neb. RS Chapter 28, Article 3, 4, 7, 8, 10, 11, or 12, or any similar offense under a prior criminal statute or in another state; a person who has never had a liquor license revoked for cause; a person whose premises, for which a license is sought, meets standards for fire safety as established by the State Fire Marshal; provided, the beneficial interest requirement in this section shall not apply to a person applying for an additional license for use in connection with the operation of a hotel containing at least 25 sleeping rooms, or where the request is limited to on premises sale of beer only in a restaurant.
(Neb. RS 53-124.03, 53-125) (1994 Code, § 10-106) Penalty, See § 10.99

§ 112.20 LIQUOR LICENSE RENEWAL.

Retail or bottle club licenses issued by the Commission and outstanding may be automatically renewed in the absence of a request by the Board of Trustees to require the licensee to issue an application for renewal. Any licensed retail or bottle club establishment located in an area which is annexed to the municipality shall file a formal application for a license, and while such application is pending, the licensee shall be authorized to continue all license privileges pursuant to this chapter until the original license expires, is canceled, or revoked. If the license expires within 60 days following the annexation date of such area, the license may be renewed by order of the Commission for not more than 1 year. The Village Clerk/Treasurer, upon notice from the Commission, between January 10 and January 30 of each year, shall cause to be published in a legal newspaper in, or of general circulation in the municipality, 1 time, a notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the municipality; provided, Class C license renewal notices shall be published between the dates of July 10 and July 30 of each year. The Village Clerk/Treasurer shall then file with the Commission proof of publication of the notice on or before February 10 of each year or August 10 of each year for Class C licenses. Upon the conclusion of any hearing required by this section, the Board of Trustees may request a licensee to submit an application.
(Neb. RS 53-135, 53-135.01) (1994 Code, § 10-108)

§ 112.21 OWNER OF PREMISES.

The owner of any premise 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 licensee if the owner shall knowingly permit the licensee to use the licensed premise in violation of any municipal code section or Nebraska statute.
(Neb. RS 53-1,101) (1994 Code, § 10-110)

Bennet – Business Regulations

§ 112.22 EMPLOYER.

The employer of any officer, director, manager, or employees working in a retail liquor establishment shall be held to be liable and guilty of any act or omission or violation of any law or ordinance, if such act is committed or omission made with the authorization, knowledge or approval of the employer or licensee, and each such act or omission shall be deemed and held to be the act of the employer, and will be punishable in the same manner as if the act or omission had been committed by him or her personally.
(Neb. RS 53-1,102) (1994 Code, § 10-111)

§ 112.23 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 to any person who is mentally incompetent.
(Neb. RS 53-180) (1994 Code, § 10-112) Penalty, See § 10.99

§ 112.24 CREDIT SALES.

No person shall sell or furnish alcoholic liquor at retail to any person or persons for credit of any kind, barter, or services rendered; provided, nothing herein contained shall be construed to prevent any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members, or guests of members, and charged to the accounts of the members or guests in accordance with the by-laws of any such club; and provided further, nothing shall be construed to prevent any hotel or restaurant holding a retail alcoholic beverage license from permitting checks or statements for liquor to be signed by regular guests residing in the hotel, and charged to the accounts of such guests.
(Neb. RS 53-183) (1994 Code, § 10-113) Penalty, See § 10.99

§ 112.25 SPIKING BEER.

It shall be unlawful for any person or persons who own, manage, or lease any premise in which the sale of alcoholic beverages is licensed, to serve or offer for sale any beer to which there has been added any alcohol, or permit any person or persons to add alcohol to any beer on the licensed premise of such licensee.
(Neb. RS 53-174) (1994 Code, § 10-114) Penalty, See § 10.99

§ 112.26 ORIGINAL PACKAGE.

It shall be unlawful for any person or persons who own, manage, or lease any premise in which the sale of alcoholic beverages is licensed, to have in their possession for sale at retail any alcoholic liquor contained in casks, or other containers except in the original package. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale.
(Neb. RS 53-184) (1994 Code, § 10-115) Penalty, See § 10.99

Alcoholic Beverages

§ 112.27 MINOR'S PRESENCE.

It shall be unlawful for any person or persons who own, manage, or lease an establishment selling alcoholic beverages at retail to allow any minor under the age of 18 years to frequent or otherwise remain in the establishment unless the minor is accompanied by his or her parent or legal guardian, and unless the minor remains seated with, and under the immediate control of, the parent or legal guardian.

(Neb. RS 53-147) (1994 Code, § 10-116) Penalty, See § 10.99

§ 112.28 HOURS OF SALE.

(A) Alcoholic liquor, including beer, may be sold at retail or dispensed for consumption on or off the premises during the following hours:

(1) On Sunday, between the hours of 12:00 p.m. (noon) and 2:00 a.m. the following day; and

(2) On Monday through Saturday, between the hours of 6:00 a.m. and 2:00 a.m. the following day.

(B) No person shall consume any alcoholic liquor, including beer, on licensed premises where it is sold for consumption on the premises for a period of time longer than 15 minutes after the time fixed herein for stopping the sale of alcoholic liquors, including beer, on the premises. No person shall permit or allow any beer, bottles, glasses or containers of any kind to be or remain upon any table, booth, counter or bar on his or her licensed premises for a period of time longer than 15 minutes after the time fixed for stopping the sale of alcoholic liquor, including beer, on the premises. No person except the licensee or his or her employees shall remain on the licensed premises where alcoholic liquor, including beer, is legally sold, 15 minutes after the time fixed for stopping the sale of alcoholic liquor, including beer, on the premises; and all such licensed premises shall be closed and securely locked during the hours fixed herein when it is unlawful for persons to remain on the premises, unless the recipient of the license has some other lawful business in connection therewith.

(Neb. RS 53-179) (1994 Code, § 10-117) (Ord. 1997-10.2, passed 11-17-1997; Am. Ord. 2005-12.1, passed 12-12-2005; Am. Ord. 2006-6.1, passed 8-16-2006; Am. Ord. 2011-6.1, passed 8-15-2011) Penalty, See § 10.99

§ 112.29 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 the licensed premise shall be subject to any health inspections the Board of Trustees 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 sanitary conditions shall be made at all hearings concerning the application for, or renewal of, a liquor license.

(Neb. RS 53-118) (1994 Code, § 10-118) Penalty, See § 10.99

Bennet – Business Regulations

§ 112.30 HIRING MINORS.

It shall be unlawful for any person to hire a minor regardless of sex under the age of 19 years to serve or dispense alcoholic liquors, including beer, to the licensee's customers.
(Neb. RS 53-102) (1994 Code, § 10-119) Penalty, See § 10.99

§ 112.31 DRINKING ON PUBLIC PROPERTY; POSSESSION OF OPEN ALCOHOLIC BEVERAGE CONTAINER.

(A) Except when the Nebraska Liquor Control Commission has issued a license as provided in Neb. RS 53-186(2), it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property.
(Neb. RS 53-186)

(B) (1) It is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or on any highway in this municipality.

(2) Except as provided in Neb. RS 53-186, it is unlawful for any person to consume an alcoholic beverage in a public parking area or on any highway in this municipality or inside a motor vehicle while in a public parking area or on any highway in this municipality.

(3) For purposes of this division:

(a) Alcoholic beverage means beer, ale porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description containing .5% or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor; wine of not less than .5% of alcohol by volume; or distilled spirits which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced. Alcoholic beverage does not include trace amounts not readily consumable as a beverage;

(b) Highway means a road or street including the entire area within the right-of-way;

(c) Open alcoholic beverage container means any bottle, can, or other receptacle:

1. That contains any amount of alcoholic beverage; and

2. A. That is open or has a broken seal; or

B. The contents of which are partially removed; and

(d) Passenger area means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in such area. Passenger area does not include the area behind the last upright seat of the motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.
(Neb. RS 60-6,211.08)

Alcoholic Beverages

(1994 Code, § 10-120) (Ord. 2000-7.8, passed 7-10-2000) Penalty, See § 10.99

§ 112.32 REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY.

(A) Any law enforcement officer with the power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself, or others, or who is otherwise incapacitated, from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take the intoxicated person to his or her home or to place such person in any hospital, clinic, alcoholism center, or with a medical doctor as may be necessary to preserve life or to prevent injury. The effort at placement shall be deemed reasonable if the officer contacts those facilities or doctor which have previously represented a willingness to accept and treat the individuals and which regularly do accept the individuals. If efforts are unsuccessful or are not feasible, the officer may then place such intoxicated person in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury, and under no circumstances longer than 24 hours. The placement of such person in civil protective custody shall be recorded at the facility or jail at which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to the person designated by the person taken into civil protective custody.

(B) The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for such actions. The taking of an individual into civil protective custody under this section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

(C) For purposes of this section, public property shall mean any public right-of-way, street, highway, alley, park, or other state, county, or municipally-owned property.

(D) For the purposes of this section, quasi-public property shall mean and include private or publicly-owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress.

(Neb. RS 53-1,121) (1994 Code, § 10-121)

Bennet – Business Regulations

TITLE XIII: GENERAL OFFENSES

Chapters:

130. OFFENSES GENERALLY

Bennet – General Offenses

CHAPTER 130: OFFENSES GENERALLY

Sections:

130.01	Disorderly Conduct
130.02	Obstruction of Public Ways
130.03	Disturbing the Peace
130.04	Maintaining a Nuisance
130.05	Appliances in Yard
130.06	Weeds; Litter; Stagnant Water
130.07	Abandoned Automobiles
130.08	Discharge of Firearms
130.09	Slingshots, Air Guns, BB Guns
130.10	Sexual Predator Residency Restrictions; Definitions; Prohibited Location of Residence; Measuring of Distance; Penalties; Exceptions

Cross-reference:

Business Regulations, See Title XI

Traffic Code, See Title VII

§ 130.01 DISORDERLY CONDUCT.

Any person who shall knowingly start a fight, fight, commit assault or battery, make unnecessary noise, or otherwise conduct themselves in such a way to breach the peace shall be deemed to be guilty of an offense.

(Neb. RS 17-556) (1994 Code, § 6-304) Penalty, See § 10.99

§ 130.02 OBSTRUCTION OF PUBLIC WAYS.

It shall be unlawful for any person to erect, maintain, or suffer to remain on any street or public sidewalk a stand, wagon, display, or other obstruction inconvenient to or inconsistent with the public use of the same.

(1994 Code, § 6-306) Penalty, See § 10.99

Statutory reference:

Additional authority, See Neb. RS 17-555 and 17-557

Authority to regulate, excavation and obstruction of streets, See Neb. RS 17-142

Penalties for injuring or obstructing roads, See Neb. RS 39-301 and 39-302

§ 130.03 DISTURBING THE PEACE.

It shall be unlawful for any person or persons to assemble or gather within the municipality with the intent to do an unlawful or disorderly act or acts, by force or violence against the municipality, or residents therein, or who shall disturb the public peace, quiet, security, repose, or sense of morality. Any person or persons so assembled or gathered shall be deemed to be guilty of an offense.

(Neb. RS 28-818) (1994 Code, § 6-305)

Bennet – General Offenses

§ 130.04 MAINTAINING A NUISANCE.

It shall be unlawful for any person to erect, keep up, or continue and maintain any nuisance to the injury of any part of the citizens of the municipality.

(Neb. RS 28-1321(1)) (1994 Code, § 6-301) Penalty, See § 10.99

§ 130.05 APPLIANCES IN YARD.

It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other dangerous appliance to be in the open and accessible to children whether on private or public property unless the person first removes all doors and makes the same reasonably safe.

Penalty, See § 10.99

Statutory reference:

Authority to prohibit nuisances within zoning jurisdiction, See Neb. RS 18-1720 and 28-1321

§ 130.06 WEEDS; LITTER; STAGNANT WATER.

(A) Lots or pieces of ground within the Village shall be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon.

(B) The owner or occupant of any lot or piece of ground within the Village shall keep the lot or piece of ground and the adjoining street and alleys free of any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation.

(C) The throwing, depositing, or accumulation of litter on any lot or piece of ground within the Village is prohibited, provided that grass, leaves, and worthless vegetation may be used as a ground mulch or in a compost pile.

(D) It is hereby declared to be a nuisance to permit or maintain any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation or to litter or cause litter to be deposited or remain thereon except in proper receptacles.

(E) Any owner or occupant of a lot or piece of ground shall, upon conviction of violating this section, be guilty of an offense.

(F) (1) Notice to abate and remove the nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by first class mail, postage prepaid, addressed to the owner or the owner's duly authorized agent at the address shown on the tax records in the office of the Lancaster County Treasurer. The outside of such mailing shall be conspicuously marked as to its importance. The notice shall also be posted on the lot or ground upon which the nuisance is to be abated and removed. Within 8 days after posting of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the Village to appeal the decision to abate or remove the nuisance by filing a written appeal with the office of the Village Clerk/Treasurer. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by the Chairman of the Village Board. The Chairman shall render a decision on the appeal within 5 business days after the conclusion of the hearing. If the appeal fails, the Village may have such work done. If the owner or occupant of the lot or piece of ground does not request a hearing with the Village within the time provided above, or fails to comply with the order

Offenses Generally

to abate and remove the nuisance, the Village may have the work done. The costs and expenses of the work shall be paid by the owner.

(2) If unpaid for 2 months after the work is done, the Village may either:

(a) 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

(b) 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.

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

LITTER. Shall include but not be limited to:

(a) Trash, rubbish, refuse, garbage, paper, rags, and ashes;

(b) Wood, plaster, cement, brick, or stone building rubble;

(c) Grass, leaves, and worthless vegetation;

(d) Offal and dead animals; and

(e) Any machine or machines, vehicle or vehicles, 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.

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.*) (toun), hemp plant (*cannabis sativa*), and ragweed (*ambrosiaceae*). (Neb. RS 17-563) (1994 Code, § 6-302) (Am. Ord. 2007-10.1, passed 12-10-2007; Am. Ord. 2013-10.1, passed 12-9-2013) Penalty, See § 10.99

Statutory reference:

Additional authority to regulate nuisances, See Neb. RS 18-1720

§ 130.07 ABANDONED AUTOMOBILES.

(A) (1) No person shall cause any vehicle to be an abandoned vehicle as described in divisions (B)(1)(a), (B)(1)(b), (B)(1)(c), or (B)(1)(d) of this section.
(Neb. RS 60-1907)

(2) No person other than 1 authorized by the municipality or appropriate state agency shall destroy, deface, or remove any part of a vehicle which is left unattended on a highway or other public place without license plates affixed or which is abandoned.
(Neb. RS 60-1908)

Bennet – General Offenses

(B) (1) A motor vehicle is an abandoned vehicle:

(a) If left unattended, with no license plates or valid “in transit” decals issued pursuant to Neb. RS 60-320 affixed thereto, for more than 6 hours on any public property;

(b) If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;

(c) If left unattended for more than 48 hours after the parking of the vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

(d) If left unattended for more than 7 days on private property if left initially without permission of the owner, or after permission of the owner is terminated; or

(e) 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 division (E) of this section.

(2) No motor vehicle subject to forfeiture under Neb. RS 28-431 shall be an abandoned vehicle under this division (B).
(Neb. RS 60-1901)

(C) If an abandoned vehicle, at the time of abandonment, has no license plates of the current year or valid “in transit” decals issued pursuant to Neb. RS 60-320 affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of \$250 or less, title shall immediately vest in the municipality.
(Neb. RS 60-1902)

(D) (1) Except for vehicles governed by division (C) of this section, the municipality shall make an inquiry concerning the last-registered owner of an abandoned vehicle as follows:

(a) Abandoned vehicle with license plates affixed, to the jurisdiction which issued the license plates; or

(b) Abandoned vehicle with no license plates affixed, to the Department of Motor Vehicles.

(2) The municipality shall notify the last-registered owner, if any, that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed, either:

(a) It will be sold or will be offered at public auction after 5 days from the date the notice was mailed; or

(b) Title will vest in the municipality 30 days after the date the notice was mailed.

(3) If the municipality is notified that a lien or mortgage exists, the notice described in division (D)(2) of this section shall also be sent to the lienholder or mortgagee. Any person claiming the vehicle shall be required to pay the cost of removal and storage of the vehicle.

(4) Title to an abandoned vehicle, if unclaimed, shall vest in the municipality:

Offenses Generally

(a) Five days after the date the notice is mailed if the vehicle will be sold or offered at public auction under division (D)(2)(a) of this section;

(b) Thirty days after the date the notice is mailed if the municipality will retain the vehicle; or

(c) If the last-registered owner cannot be ascertained, when notice of the fact is received.

(5) After title to the abandoned vehicle vests pursuant to division (D)(4) of this section, the municipality may retain for use, sell, or auction the abandoned vehicle. If the municipality has determined that the vehicle should be retained for use, the municipality 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 municipality intends to retain the abandoned vehicle for its use and that title will vest in the municipality 30 days after publication.
(Neb. RS 60-1903)

(E) (1) If the municipal law enforcement agency has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody, it shall send a certified letter to each of the last-registered owners stating that the vehicle is in the custody of the agency, that the vehicle is no longer needed for law enforcement purposes, and that after 30 days the agency will dispose of the vehicle.

(2) This division shall not apply to motor vehicles subject to forfeiture under Neb. RS 28-431.

(3) No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this division unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the law enforcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees.
(Neb. RS 60-1903.01)

(F) (1) Any proceeds from the sale of an abandoned vehicle, less any expenses incurred by the municipality, shall be held by the municipality without interest, for the benefit of the owner or lienholders of the vehicle for a period of 2 years.

(2) If not claimed within the 2-year period, the proceeds shall be paid into the general fund of the municipality.
(Neb. RS 60-1905)

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

(H) The last-registered owner of an abandoned vehicle shall be liable to the municipality for the costs of removal and storage of the vehicle.
(Neb. RS 60-1909)

Bennet – General Offenses

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

PUBLIC PROPERTY. Any public right-of-way, street, highway, alley or park or other state, county, or municipally owned property; **PRIVATE PROPERTY** means any privately owned property which is not included within the definition of public property. (Neb. RS 60-1901)

(J) Any person who violates the provisions of this section is guilty of an offense. (Ord. 2000-7.7, passed 7-10-2000) Penalty, See § 10.99

Statutory reference:

Additional regulations, See Neb. RS 60-1901 through 60-1911

§ 130.08 DISCHARGE OF FIREARMS.

It shall be unlawful for any person, except an officer of the law in the discharge of official duty, to fire or discharge any gun, pistol, or other fowling piece within the municipality, except that nothing in this section shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the Board of Trustees. Penalty, See § 10.99

Statutory reference:

Authority to regulate, See Neb. RS 17-556

§ 130.09 SLINGSHOTS, AIR GUNS, BB GUNS.

It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the municipality. Penalty, See § 10.99

Statutory reference:

Authority to regulate, See Neb. RS 17-556

§ 130.10 SEXUAL PREDATOR RESIDENCY RESTRICTIONS; DEFINITIONS; PROHIBITED LOCATION OF RESIDENCE; MEASURING OF DISTANCE; PENALTIES; EXCEPTIONS.

(A) Definitions. For purposes of this section:

(1) Child care facility means a facility licensed pursuant to the Child Care Licensing Act;

(2) School means a public, private, denominational, or a parochial school which meets the requirements for state accreditation or approval;

Offenses Generally

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

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

(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 who is required to register under the Sex Offender Registration Act, who has been classified as Level 3 because of a high risk of recidivism as determined by the Nebraska State Patrol under Neb. Rev. Stat. § 29-4013, and who has victimized a person eighteen years of age or younger.

(B) PROHIBITED LOCATION OF RESIDENCE. It is unlawful for any sexual predator to reside within five hundred feet from a school or child care facility.

(C) MEASURE OF DISTANCE. For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or child care facility.

(D) PENALTIES. A person who violates this section is guilty of an offense and shall be punished as provided generally in the code.

(E) EXCEPTIONS. This ordinance shall not apply to a 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 child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location.

(Ord. 2006-11.1, passed 11-13-2006)

Statutory Reference:

See Neb. RS 29-4015, et seq.

Bennet – Business Regulations

TITLE XIV: STRUCTURAL SAFETY

Chapters:

- 140. BENNET BUILDING CODE**
- 141. BENNET RESIDENTIAL CODE**
- 142. BENNET MECHANICAL CODE**
- 143. BENNET FUEL GAS CODE**
- 144. BENNET PLUMBING CODE**
- 145. GENERAL PROVISIONS RELATING TO ADMINISTRATION
OF BUILDING CODES**
- 146. MOVING OF BUILDINGS**
- 147. UNSAFE BUILDINGS**
- 148. MINIMUM HOUSING CODE**

CHAPTER 140: BENNET BUILDING CODE

Sections:

140.01	International Building Code, 2009 Edition; Adoption by Reference; Application to Extraterritorial Zoning Jurisdiction
140.02	International Building Code; Section 101.1; Amended
140.03	International Building Code; Section 101.3; Amended
140.04	International Building Code; Section 101.4; Amended
140.05	International Building Code; Section 103; Deleted
140.06	International Building Code; Sections 105.1.1 and 105.1.2; Deleted
140.07	International Building Code; Section 105.2; Amended
140.08	International Building Code; Section 107.1; Amended
140.09	International Building Code; Section 109; Amended
140.10	International Building Code; Section 110.1; Amended
140.11	International Building Code; Sections 110.3.3 and 110.3.7; Deleted
140.12	International Building Code; Section 110.3.11; Added
140.13	International Building Code; Section 110.7; Added
140.14	International Building Code; Section 111.2; Amended
140.15	International Building Code; Section 111.5; Added
140.16	International Building Code; Section 112; Deleted
140.17	International Building Code; Section 113; Deleted
140.18	International Building Code; Section 116; Deleted
140.19	International Building Code; Section 305.2; Amended
140.20	International Building Code; Section 310.1; Amended
140.21	International Building Code; Section 406.1.2; Amended
140.22	International Building Code; Section 406.1.4; Amended
140.23	International Building Code; Section 423.3; Added
140.24	International Building Code; Section 501.2; Amended
140.25	International Building Code; Section 503.1.4; Added
140.26	International Building Code; Section 503.1.5; Added
140.27	International Building Code; Sections 717.2 and 717.2.1; Amended
140.28	International Building Code; Section 717.4.2; Exception 3; Amended
140.29	International Building Code; Section 903.2.7; Amended
140.30	International Building Code; Section 903.2.8; Exception; Added
140.31	International Building Code; Section 1003.5; Exception 4; Added
140.32	International Building Code; Section 1004.1.1; Amended
140.33	International Building Code; Section 1008.1.9.7; Amended
140.34	International Building Code; Section 1009.1; Exception 5; Added
140.35	International Building Code; Section 1009.4.2; Exception 5; Amended
140.36	International Building Code; Section 1009.4.2; Exception 8; Added
140.37	International Building Code; Section 1013.2; Amended
140.38	International Building Code; Section 1014.2.1; Amended
140.39	International Building Code; Chapter 11; Deleted

Bennet – Structural Safety

140.40	International Building Code; Chapter 13; Deleted
140.41	International Building Code; Sections 1403.5 and 1403.6; Deleted
140.42	International Building Code; Section 1405.5; Amended
140.43	International Building Code; Section 1406.3; Amended
140.44	International Building Code; Section 1509.6; Added
140.45	International Building Code; Section 1510.3; Amended
140.46	International Building Code; Section 1608.2; Amended
140.47	International Building Code; Section 1612; Deleted
140.48	International Building Code; Section 1613; Deleted
140.49	International Building Code; Section 1804.4; Deleted
140.50	International Building Code; Section 1805.1.2.1; Deleted
140.51	International Building Code; Section 1809.5; Amended
140.52	International Building Code; Section 2304.11.5.1; Added
140.53	International Building Code; Table 2308.8(1); Deleted
140.54	International Building Code; Section 2410; Added
140.55	International Building Code; Chapters 27, 28 and 29; Deleted
140.56	International Building Code; Section 3109; Deleted
140.57	International Building Code; Sections 3202.3.2 and 3202.3.3; Deleted
140.58	International Building Code; Section 3202.5; Added
140.59	International Building Code; Section 3303; Amended
140.60	International Building Code; Section 3306.2; Amended
140.61	International Building Code; Section 3306.4; Amended
140.62	International Building Code; Section 3306.7; Deleted
140.63	International Building Code; Appendix C; Adopted
140.64	International Building Code; Appendix C; Section C105; Added

Cross-reference:

Comprehensive Plan, See Ch. 153

Fire Regulations, See Ch. 90

Subdivision Regulations, See Ch. 151

Zoning Code, See Ch. 152

BENNET BUILDING CODE

§ 140.01 INTERNATIONAL BUILDING CODE, 2009 EDITION; ADOPTION BY REFERENCE; APPLICATION TO EXTRATERRITORIAL ZONING JURISDICTION.

The International Building Code, 2009 Edition, as published by the International Code Council, Inc., a copy of which is on file in the office of the Village Clerk/Treasurer, be and the same is hereby adopted as the Building Code for the Village of Bennet and for the area within its extraterritorial zoning jurisdiction, for regulating and governing the construction, alteration, enlargement, replacement, and repair of buildings and structures, by providing the standards for

Bennet Building Code

supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use; and the demolition of structures as herein provided; providing for the issuance of permits and collection of fees therefor; with the additions, insertions, deletions and changes as hereinafter provided in this Chapter.

(1994 Code, § 9-101) (Ord. 2005-11.1, passed 11-14-2005; Am. Ord. 2005-12.2, passed 12-12-2005; Am. Ord. 2013-8.1, § 1, passed 10-14-2013)

§ 140.02 INTERNATIONAL BUILDING CODE; SECTION 101.1; AMENDED.

Section 101.1 of the International Building Code is amended to read as follows:

101.1 Title. These regulations shall be known as the Building Code of the Village of Bennet, hereinafter referred to as “this code.”

(Ord. 2013-8.1, § 2, passed 10-14-2013)

§ 140.03 INTERNATIONAL BUILDING CODE; SECTION 101.3; AMENDED.

Section 101.3 of the International Building Code is amended to read as follows:

101.3 Intent. The purpose of this code is to establish the minimum requirements to safeguard the public health, safety, and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards attributable to the built environment.

(Ord. 2013-8.1, § 3, passed 10-14-2013)

§ 140.04 INTERNATIONAL BUILDING CODE; SECTION 101.4; AMENDED.

Section 101.4 of the International Building Code is amended to read as follows:

101.4 Referenced codes. The other codes listed in Sections 101.4.1 through 101.4.3 and referenced elsewhere in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference.

101.4.1 Gas. The provisions of the International Fuel Gas Code shall apply to the installation of gas piping from the point of delivery, gas appliances and the installation and operation of residential and commercial gas appliances and related accessories as covered in this code. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories.

Bennet – Structural Safety

101.4.2 Mechanical. The provisions of the International Mechanical Code shall apply to the installation, alterations, repairs and replacement of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems.

101.4.3 Plumbing. The provisions of the Uniform Plumbing Code, 2009 Edition, as adopted and amended by the Village of Bennet, shall apply to the erection, installation, alteration, repair, relocation, replacement and addition to, use, or maintenance of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system within this jurisdiction.

(Ord. 2013-8.1, § 4, passed 10-14-2013)

§ 140.05 INTERNATIONAL BUILDING CODE; SECTION 103; DELETED.

That Section 103 of the International Building Code (Department of Building Safety) is deleted in its entirety.

(Ord. 2013-8.1, § 5, passed 10-14-2013)

§ 140.06 INTERNATIONAL BUILDING CODE; SECTIONS 105.1.1 AND 105.1.2; DELETED.

Sections 105.1.1 relating to annual permits and 105.1.2 relating to annual permit records be and the same are hereby deleted in their entirety.

(Ord. 2013-8.1, § 6, passed 10-14-2013)

§ 140.07 INTERNATIONAL BUILDING CODE; SECTION 105.2; AMENDED.

Section 105.2 of the International Building Code is amended to read as follows:

105.2 Work exempt from permit. Exemptions from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

1. One-story detached accessory structures, provided the floor area does not exceed 200 square feet (18.58 m²).

2. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.

Bennet Building Code

3. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18 927 L) and the ratio of height to diameter or width does not exceed 2:1.
4. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below.
5. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
6. Prefabricated swimming pools that are less than 24 inches (610 mm) deep.
7. Swings and other playground equipment accessory to a one- or two-family dwelling.
8. Window awnings supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.
9. Shingling and residing.
(Ord. 2013-8.1, § 7, passed 10-14-2013)

§ 140.08 INTERNATIONAL BUILDING CODE; SECTION 107.1; AMENDED.

Section 107.1 of the International Building Code is amended to read as follows:

107.1 General. Plans, specifications, legal surveys, engineering calculations, diagrams, soil investigation reports, special inspection and structural observation programs and other data shall constitute the submittal documents and shall be submitted in one or more sets with each application for a permit. When such plans are not prepared by an architect or engineer, the building official may require the applicant submitting such plans or other data to demonstrate that state law does not require that the plans be prepared by a licensed architect or engineer. The building official may require plans, computations, and specifications to be prepared and designed by an engineer or architect licensed by the state to practice as such even if not required by state law. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception: The building official may waive the submission of plans, calculations, construction inspections requirements and other data if it is found that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this code.
(Ord. 2013-8.1, § 8, passed 10-14-2013)

§ 140.09 INTERNATIONAL BUILDING CODE; SECTION 109; AMENDED.

Section 109 of the International Building Code is amended to read as follows:

Bennet – Structural Safety

SECTION 109 FEES

109.1 Payment of fees. A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

109.2 Schedule of permit fees. The Village Board shall adopt, by resolution, a schedule of permit fees for each permit, for plan review, and for inspections to be issued or conducted under this code.

109.3 Plan review fees. When a plan or other data is required to be submitted by Section 107.1, a plan review fee shall be paid at the rate stated in the adopted schedule of fees. For one additional plan review of corrections made on the original plans after the initial plan review shall be performed at no cost to the applicant; however, where plans require further corrections, are incomplete, or are changed necessitating additional plan review, an additional plan review fee shall be charged at the rate stated in the adopted schedule of fees.

109.4 Work Commencing Before Permit Issuance. Any person who commences any work on a building, structure, electrical, gas, mechanical, or plumbing system before obtaining the necessary permits shall be subject to a fee equal to twice the otherwise established fee for issuance of the required permit.

109.5 Related fees. The payment of the fee for the construction, alteration, removal, or demolition for work done in connection to or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

109.6 Refunds. There shall be no refunds or credits given on permits or applications regulated by this Chapter that have expired. A request for refund may be made to the Village Board of Trustees only when the permit holder returns an unused permit prior to the expiration date of the permit. A refund of a plan review fee may be requested only when an application for a permit for which such fee has been paid is withdrawn or cancelled before any plan review is performed. (Ord. 2013-8.1, § 9, passed 10-14-2013)

§ 140.10 INTERNATIONAL BUILDING CODE; SECTION 110.1; AMENDED.

Section 110.1 of the International Building Code is amended to read as follows:

110.1 General. All construction or work for which a permit is required shall be subject to inspection by the building official and all such construction work shall remain accessible and exposed for inspection purposes until approved by the building official. In addition, certain types of construction shall have continuous inspection as specified in Section 1704.

Bennet Building Code

Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the village. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the village shall not be valid.

A survey of the lot or lots upon which permitted work for additions, alterations, or repairs are being accomplished shall be provided by a duly licensed surveyor of the state of Nebraska before plans and specifications shall be accepted by the building official to verify compliance of the construction or work with building line setback requirements of the Bennet Zoning Code. All boundary corners of a lot or lots with permanent survey monuments shall be marked in the field by a duly licensed surveyor of the state of Nebraska.

The monuments set shall be constructed of material capable of being detected by commonly used magnetic locators. These monuments shall consist of an iron pipe or steel rod with a minimal diameter of one-half inch and minimal length of twenty-four inches. A durable cap bearing the registration number of the professional land surveyor responsible for the establishment of the monument shall be affixed securely to the top of each monument.

Said permanent survey monument shall be maintained and readily identifiable during the entire period of the time that the construction work is being accomplished for which a permit is required.

It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the village shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.
(Ord. 2013-8.1, § 10, passed 10-14-2013)

§ 140.11 INTERNATIONAL BUILDING CODE; SECTIONS 110.3.3 and 110.3.7; DELETED.

Sections 110.3.3 and 110.3.7 of the International Building Code (Lowest Floor Elevation) and (Energy Efficient Inspections) are hereby deleted.
(Ord. 2013-8.1, § 11, passed 10-14-2013)

§ 140.12 INTERNATIONAL BUILDING CODE; SECTION 110.3.11; ADDED.

110.3.11 Reinspections. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. Reinspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the building official.
(Ord. 2013-8.1, § 12, passed 10-14-2013)

§ 140.13 INTERNATIONAL BUILDING CODE; SECTION 110.7; ADDED.

110.7 Address identification. All additions, alterations, or repairs for which a permit is required by this code shall be provided with a construction address identification sign. Said identification sign shall be a sign of metal, wood, plastic, or other approved rigid material with permanent identification numbers and letters thereon indicating the legally assigned street or other type address assigned by the building official. Said identification sign shall have numbers and letters of such size and shall be so placed upon the construction site that said sign is readily visible and identifiable from the public street. Said identification sign shall be properly maintained during the entire period of time that the construction or work is being accomplished or maintained.
(Ord. 2013-8.1, § 13, passed 10-14-2013)

§ 140.14 INTERNATIONAL BUILDING CODE; SECTION 111.2; AMENDED.

111.2 Certificate issued. After the building official inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the building official, the building official shall issue a certificate of occupancy.
(Ord. 2013-8.1, § 14, passed 10-14-2013)

§ 140.15 INTERNATIONAL BUILDING CODE; SECTION 111.5; ADDED.

111.5 Change in use. Changes in the character or use of a building shall not be made except as specified in Section 34.08 of this code.
(Ord. 2013-8.1, § 15, passed 10-14-2013)

§ 140.16 INTERNATIONAL BUILDING CODE; SECTION 112; DELETED.

Section 112 of the International Building Code (Service Utilities) is deleted in its entirety.
(Ord. 2013-8.1, § 16, passed 10-14-2013)

§ 140.17 INTERNATIONAL BUILDING CODE; SECTION 113; DELETED.

Section 113 of the International Building Code (Board of Appeals) is deleted in its entirety.
(Ord. 2013-8.1, § 17, passed 10-14-2013)

§ 140.18 INTERNATIONAL BUILDING CODE; SECTION 116; DELETED.

Section 116 of the International Building Code (Unsafe Structures and Equipment) is deleted in its entirety.
(Ord. 2013-8.1, § 18, passed 10-14-2013)

Bennet Building Code

§ 140.19 INTERNATIONAL BUILDING CODE; SECTION 305.2; AMENDED.

Section 305.2 of the International Building Code is amended to read as follows:

305.2 Day care. The use of a building or structure, or portion thereof, for educational, supervision, or personal care services for more than twelve children older than 2½ years of age, shall be classified as a Group E occupancy.
(Ord. 2013-8.1, § 19, passed 10-14-2013)

§ 140.20 INTERNATIONAL BUILDING CODE; SECTION 310.1; AMENDED.

Section 310.1 of the International Building Code is amended to read as follows:

310.1 Residential Group R. The R-3 Residential Occupancies of Section 310.1 of the International Building Code are amended to read as follows:

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4 or I, including:

Buildings that do not contain more than two dwelling units.

Adult care facilities that provide accommodations for twelve or fewer persons of any age for less than 24 hours.

Child care facilities that provide accommodations for twelve or fewer persons of any age for less than 24 hours.

Congregate living facilities with 16 or fewer persons.

Adult care and child care facilities that are within a single-family home are permitted to comply with the International Residential Code.

Except as amended above, all other provisions of Section 310.1 as set forth in the International Building Code are adopted as written.
(Ord. 2013-8.1, § 20, passed 10-14-2013)

§ 140.21 INTERNATIONAL BUILDING CODE; SECTION 406.1.2; AMENDED.

Section 406.1.2 of the International Building Code is amended to read as follows:

406.1.2 Area increase. Group U occupancies used for the storage of private or pleasure-type motor vehicles where no repair work is completed or fuel is dispensed are permitted to be 3,000 square feet (279 m²) when the following provisions are met:

Bennet – Structural Safety

1. For a mixed occupancy building, the exterior wall and opening protection for the Group U portion of the building shall be as required for the major occupancy of the building. For such a mixed occupancy building, the allowable floor area of the building shall be as permitted for the major occupancy contained therein.

2. For a building containing only a Group U occupancy, the exterior wall shall not be required to have a fire-resistance rating and the area of openings shall not be limited when the fire separation distance is 5 feet (1524 mm) or more.

More than one 900-square-foot Group U occupancy shall be permitted to be in the same building, provided each 900-square-foot area is separated by fire walls complying with Section 706. (Ord. 2013-8.1, § 21, passed 10-14-2013)

§ 140.22 INTERNATIONAL BUILDING CODE; SECTION 406.1.4; AMENDED.

Section 406.1.4 of the International Building Code is amended to read as follows:

406.1.4 Separation. Separations shall comply with the following:

1. The private garage shall be separated from the dwelling unit and its attic area by means of a minimum 5/8-inch Type X gypsum board applied to the garage side. Garages beneath habitable rooms shall be separated from all habitable rooms above by not less than a 5/8-inch Type X gypsum board or equivalent. Door openings between a private garage and the dwelling unit shall be equipped with either solid wood doors or solid or honeycomb core steel doors not less than 1 3/8 inches (34.9 mm) thick, or doors in compliance with Section 715.4.3. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted.

2. A separation is not required between a Group R-3 and U carport, provided the carport is entirely open on two or more sides and there are not enclosed areas above. (Ord. 2013-8.1, § 22, passed 10-14-2013)

§ 140.23 INTERNATIONAL BUILDING CODE; SECTION 423.3; ADDED.

Section 423.3 is added to the International Building Code to read as follows:

423.3 Construction of storm shelters. Buildings, structures, and parts thereof intended for use as a storm shelter shall be designed and constructed in accordance with the recommendations of the Federal Emergency Management Agency and design standard FEMA 361. (Ord. 2013-8.1, § 23, passed 10-14-2013)

Bennet Building Code

§ 140.24 INTERNATIONAL BUILDING CODE; SECTION 501.2; AMENDED.

Section 501.2 of the International Building Code is amended to read as follows:

501.2 Premises identification. Buildings shall have approved address numbers, building numbers or approved building identification in accordance with Bennet Municipal Code Chapter 6-201. Address numbers shall be a minimum of 4 inches in height, except address numbers located on a building set back any distance from the property line shall be a minimum of 8 inches in height. (Ord. 2013-8.1, § 24, passed 10-14-2013)

§ 140.25 INTERNATIONAL BUILDING CODE; SECTION 503.1.4; ADDED.

Section 503.1.4 is added to the International Building Code to read as follows:

503.1.4 Location on property. Buildings shall adjoin or have access to a public way or yard on not less than one side. Required yards shall be permanently maintained. For the purpose of this section, the centerline of an adjoining public way shall be considered an adjacent property line. Active primary railroad lines where rail cars cannot be parked for extended periods of time may also be considered as a public way. (Ord. 2013-8.1, § 25, passed 10-14-2013)

§ 140.26 INTERNATIONAL BUILDING CODE; SECTION 503.1.5; ADDED.

Section 503.1.5 is added to the International Building Code to read as follows:

503.1.5 Primary railroad lines. For the purpose of this section, active primary railroad lines where rail cars cannot be parked for extended periods of time may also be considered as a public way. (Ord. 2013-8.1, § 26, passed 10-14-2013)

§ 140.27 INTERNATIONAL BUILDING CODE; SECTIONS 717.2 AND 717.2.1; AMENDED.

Sections 717.2 and 717.2.1 of the International Building Code are amended to read as follows:

717.2 Fireblocking required. Fireblocking shall be provided to cut off all concealed draft openings (both vertical and horizontal) and to form an effective fire barrier between stories, and between a top story and the roof space. Fireblocking shall be provided in wood-frame construction in the following locations:

1. In concealed spaces of stud walls and partitions, including furred spaces, at the ceiling and floor level and at 10 foot (3048 mm) intervals both vertical and horizontal. Batts or

Bennet – Structural Safety

blankets of mineral or glass fiber or other approved non-rigid materials shall be allowed as fireblocking in walls constructed using parallel rows of studs or staggered studs.

2. Fireblocking of cornices of a two-family dwelling is required at the line of dwelling unit separation.

717.2.1 Materials. Fireblocking shall consist of 2-inch (51 mm) nominal lumber; or two thicknesses of 1-inch (25.4 mm) nominal lumber with broken lap joints; or one thickness of $2\frac{3}{32}$ -inch (19.8 mm) wood structural panels with joints backed by $2\frac{3}{32}$ -inch (19.8 mm) wood structural panels; or one thickness of $\frac{3}{4}$ -inch (19.1 mm) particleboard with joints backed by $\frac{3}{4}$ -inch (19.1 mm) particleboard; $\frac{1}{2}$ -inch (12.7 mm) gypsum board; or $\frac{1}{4}$ -inch (6.4 mm) cement-based millboard. Loose-fill insulation material shall not be used as a fireblock unless specifically tested in the form and manner intended for use to demonstrate its ability to remain in place and to retard the spread of fire and hot gases. The integrity of all fireblocks shall be maintained.

(Ord. 2013-8.1, § 27, passed 10-14-2013)

§ 140.28 INTERNATIONAL BUILDING CODE; SECTION 717.4.2; EXCEPTION 3; AMENDED.

Exception 3 to Section 717.4.2 of the International Building Code is amended to read as follows:

3. In occupancies in Groups R-1 and R-2 that do not exceed four stories in height, the attic space shall be subdivided by draftstops into areas not exceeding 3,000 square feet (279 m²).
(Ord. 2013-8.1, § 28, passed 10-14-2013)

§ 140.29 INTERNATIONAL BUILDING CODE; SECTION 903.2.7; AMENDED.

Section 903.2.7 of the International Building Code is amended to read as follows:

[F] 903.2.7 Group M. An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy where one of the following conditions exists:

1. A Group M fire area exceeds 12,000 square feet (1115 m²).
 2. A Group M fire area is located more than three stories above grade plane.
 3. The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m²).
- (Ord. 2013-8.1, § 29, passed 10-14-2013)

Bennet Building Code

§ 140.30 INTERNATIONAL BUILDING CODE; SECTION 903.2.8; EXCEPTION; ADDED.

Section 903.2.8 of the International Building Code is amended to read as follows:

[F] 903.2.8 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exception: A sprinkler system is not required when all of the following conditions exist:

1. The building is an R-2 apartment occupancy and contains 8 or fewer apartment units.
2. Separation is maintained between living units by means of 1 hour fire partitions creating a complete vertical separation from foundation to roof.
3. Each living unit has its own separate exit access independent of other living units.
(Ord. 2013-8.1, § 30, passed 10-14-2013)

§ 140.31 INTERNATIONAL BUILDING CODE; SECTION 1003.5; EXCEPTION 4; ADDED.

Section 1003.5 of the International Building Code is amended by adding an Exception 4 to read as follows:

4. Doors serving building equipment rooms which are not normally occupied.
(Ord. 2013-8.1, § 31, passed 10-14-2013)

§ 140.32 INTERNATIONAL BUILDING CODE; SECTION 1004.1.1; AMENDED.

Section 1004.1.1 of the International Building Code is amended to read as follows:

1004.1.1 Areas without fixed seating. The number of occupants shall be computed at the rate of one occupant per unit of area as prescribed in Table 1004.1.1. For areas without fixed seating, the occupant load shall not be less than that number determined by dividing the floor area under consideration by the occupant per unit of area factor assigned to the occupancy as set forth in Table 1004.1.1. Where an intended use is not listed in Table 1004.1.1, the building official shall establish a use based on a listed use that most nearly resembles the intended use.
(Ord. 2013-8.1, § 32, passed 10-14-2013)

§ 140.33 INTERNATIONAL BUILDING CODE; SECTION 1008.1.9.7; AMENDED.

Section 1008.1.9.7 of the International Building Code is amended to read as follows:

Bennet – Structural Safety

1008.1.9.7 Delayed egress locks. Approved, listed, delayed egress locks shall be permitted to be installed on doors serving any occupancy except Group A and H occupancies in buildings that are equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or an approved automatic smoke or heat detection system installed in accordance with Section 907, provided that the doors unlock in accordance with Items 1 through 6 below. A building occupant shall not be required to pass through more than one door equipped with a delayed egress lock before entering an exit.

1. The doors unlock upon actuation of the automatic sprinkler system or automatic fire detection system.
2. The doors unlock upon loss of power controlling the lock or lock mechanism.
3. The door locks shall have the capability of being unlocked by a signal from the fire command center.
4. The initiation of an irreversible process which will release the latch in not more than 15 seconds when a force of not more than 15 pounds (67 N) is applied for 1 second to the release device. Initiation of the irreversible process shall activate an audible signal in the vicinity of the door. Once the door lock has been released by the application of force to the releasing device, relocking shall be by manual means only.

Exception: Where approved, a delay of not more than 30 seconds is permitted.

5. A sign shall be provided on the door located above and within 12 inches (305 mm) of the release device reading: PUSH UNTIL ALARM SOUNDS. DOOR CAN BE OPENED IN 15 SECONDS.
6. Emergency lighting shall be provided at the door.
(Ord. 2013-8.1, § 33, passed 10-14-2013)

§ 140.34 INTERNATIONAL BUILDING CODE; SECTION 1009.1; EXCEPTION 5; ADDED.

Section 1009.1 of the International Building Code is amended by adding an Exception 5 to read as follows:

5. Private stairways serving less than 10 occupants within an individual apartment unit (R-2) may be 34 inches in width.
(Ord. 2013-8.1, § 34, passed 10-14-2013)

Bennet Building Code

§ 140.35 INTERNATIONAL BUILDING CODE; SECTION 1009.4.2; EXCEPTION 5; AMENDED.

Exception 5 to Section 1009.4.2 of the International Building Code is amended to read as follows:

5. In Group R-3 occupancies; within dwelling units in Group R-2 occupancies; and in Group U occupancies that are accessory to a Group R-3 occupancy or accessory to individual dwellings units in Group R-2 occupancies; the maximum riser height shall be 7.75 inches (197 mm); the minimum tread depth shall be 10 inches (254 mm) including nosing; the minimum winder tread depth at the walkline shall be 10 inches (254 mm) including nosing; and the minimum winder tread depth shall be 7 inches.

(Ord. 2013-8.1, § 35, passed 10-14-2013)

§ 140.36 INTERNATIONAL BUILDING CODE; SECTION 1009.4.2; EXCEPTION 8; ADDED.

Section 1009.4.2 of the International Building Code is amended by adding an Exception 8 to read as follows:

8. Private steps and stairways serving ancillary areas such as mechanical rooms and stairways to unoccupied roofs may be constructed with an 8-inch maximum rise and 9-inch minimum tread depth.

(Ord. 2013-8.1, § 36, passed 10-14-2013)

§ 140.37 INTERNATIONAL BUILDING CODE; SECTION 1013.2; AMENDED.

Section 1013.2 of the International Building Code is amended to read as follows:

1013.2 Height. Guards shall form a protective barrier not less than 42 inches (1067 mm) high, measured vertically above the leading edge of the tread, adjacent walking surface or adjacent seatboard.

Exceptions:

1. Guards shall form a protective barrier not less than 36 inches (1067 mm) high, for occupancies in Group R-3, and within individual dwelling units in occupancies in Group R-2. (Excluding exterior balcony railings)
2. For occupancies in Group R-3, and within individual dwelling units in occupancies in Group R-2, guards whose top rail also serves as a handrail shall have a height not less than 34 inches (864 mm) and not more than 38 inches (965 mm) measured vertically from the leading edge of the stair tread nosing.

Bennet – Structural Safety

3. The height in assembly seating areas shall be in accordance with Section 1028.14.
(Ord. 2013-8.1, § 37, passed 10-14-2013)

§ 140.38 INTERNATIONAL BUILDING CODE; SECTION 1014.2.1; AMENDED.

Section 1014.2.1 of the International Building Code is amended to read as follows:

1014.2.1 Multiple tenants. Where more than one tenant occupies any one floor of a building or structure, each tenant space, dwelling unit and sleeping unit shall be provided with access to the required exits without passing through adjacent tenant spaces, dwelling units and sleeping units.
(Ord. 2013-8.1, § 38, passed 10-14-2013)

§ 140.39 INTERNATIONAL BUILDING CODE; CHAPTER 11; DELETED.

Chapter 11 of the International Building Code (Accessibility) is deleted in its entirety.
(Ord. 2013-8.1, § 39, passed 10-14-2013)

§ 140.40 INTERNATIONAL BUILDING CODE; CHAPTER 13; DELETED.

Chapter 13 of the International Building Code (Energy Efficiency) is deleted in its entirety.
(Ord. 2013-8.1, § 40, passed 10-14-2013)

§ 140.41 INTERNATIONAL BUILDING CODE; SECTIONS 1403.5 AND 1403.6; DELETED.

Sections 1403.5 and 1403.6 of the International Building Code (Flood Resistance) are hereby deleted.
(Ord. 2013-8.1, § 41, passed 10-14-2013)

§ 140.42 INTERNATIONAL BUILDING CODE; SECTION 1405.5; AMENDED.

Section 1405.5 of the International Building Code is amended to read as follows:

1405.5 Wood veneers. Wood veneers on exterior walls of buildings of Types I, II, III and IV construction shall be not less than 1-inch (25 mm) nominal thickness, 0.438-inch (11.1 mm) exterior hardboard siding or 0.375-inch (9.5 mm) exterior-type wood structural panels or particleboard and shall conform to the following:

1. The veneer does not exceed three stories in height, measured from grade, except where fire-retardant-treated wood is used, the height shall not exceed four stories.

Bennet Building Code

2. The veneer is attached to or furred from a noncombustible backing that is fire-resistance rated as required by other provisions of this code.

3. Where open or spaced wood veneers (without concealed spaces) are used, they shall not project more than 24 inches (610 mm) from the building wall.

4. Any deteriorated or rotting veneer shall be removed prior to installing new veneer. An approved weather barrier shall be installed over the existing wood exterior veneer prior to overlaying with a new veneer product.
(Ord. 2013-8.1, § 42, passed 10-14-2013)

§ 140.43 INTERNATIONAL BUILDING CODE; SECTION 1406.3; AMENDED.

Section 1406.3 of the International Building Code is amended to read as follows:

1406.3 Balconies and similar projections. Balconies, roof soffits, and similar projections of combustible construction other than fire-retardant-treated wood shall be fire-resistance rated in accordance with Table 601 for floor construction or shall be of Type IV construction in accordance with Section 602.4. The aggregate length shall not exceed 50 percent of the building's perimeter on each floor.

Exceptions:

1. On buildings of Type I and II construction, three stories or less in height, fire-retardant-treated wood shall be permitted for balconies, porches, decks and exterior stairways not used as required exits.
 2. Untreated wood is permitted for pickets and rails or similar guardrail devices that are limited to 42 inches (1067 mm) in height.
 3. Balconies and similar projections on buildings of Type III, IV and V construction shall be permitted to be of Type V construction, and shall not be required to have a fire-resistance rating where sprinkler protection is extended to these areas.
 4. Where sprinkler protection is extended to the balcony areas, the aggregate length of the balcony on each floor shall not be limited.
- (Ord. 2013-8.1, § 43, passed 10-14-2013)

§ 140.44 INTERNATIONAL BUILDING CODE; SECTION 1509.6; ADDED.

Section 1509.6 is added to the International Building Code to read as follows:

Bennet – Structural Safety

1509.6 Outdoor deck framing for roof top seating and assembly areas. Combustible wood framing may be permitted on roof tops of buildings provided that the roof is not located more than 75 feet above the lowest level of fire department vehicle access. In addition to this limitation, the combustible framing may not exceed 4 feet in height above the floor or deck level used as a walking surface. Similar structures that exceed 48 inches in height shall be of a type of construction not less in fire-resistance rating than required for the building to which it is attached. Occupied roofs shall be provided with exits as required for stories, regardless of whether roof top construction is enclosed or open to the sky. Any such structure that is covered shall be provided with all fire protection systems required for the building to which it is attached. All such structures intended for human occupancy shall have minimum 42 inch high guard rails regardless of their height above the plane of the roof. Floor deck area shall be limited to one-third total roof area.
(Ord. 2013-8.1, § 44, passed 10-14-2013)

§ 140.45 INTERNATIONAL BUILDING CODE; SECTION 1510.3; AMENDED.

Section 1510.3 to the International Building Code is amended to read as follows:

1510.3 Recovering versus replacement. New roof coverings shall not be installed without first removing existing roof coverings where any of the following conditions occur:

1. Where the existing roof or roof covering is water soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing.
2. Where the existing roof covering is wood shake, slate, clay, cement or asbestos-cement tile.
3. Before applying new roof sheathing, all old roof covering materials shall be removed and the roof's original sheathing exposed. New roofing materials shall not be installed over existing rotten or deteriorated shingles or sheathing. No more than two layers of shingles may be installed on a roof. Subsequent roofing after two layers of shingles will require the removal of all shingles to the base roof sheathing or structure.
(Ord. 2013-8.1, § 45, passed 10-14-2013)

§ 140.46 INTERNATIONAL BUILDING CODE; SECTION 1608.2; AMENDED.

Section 1608.2 to the International Building Code is amended to read as follows:

1608.2 Ground snow loads. The ground snow loads to be used in determining the design snow loads for roofs are given in ASCE 7 or Figure 1608.2 for the contiguous United States and Table 1608.2 for Alaska. The ground snow load shown in Table 1608.2 for Bennet, Nebraska, shall be 30 pounds per square foot.
(Ord. 2013-8.1, § 46, passed 10-14-2013)

Bennet Building Code

§ 140.47 INTERNATIONAL BUILDING CODE; SECTION 1612; DELETED.

Section 1612 to the International Building Code (Flood Loads) is deleted in its entirety.
(Ord. 2013-8.1, § 47, passed 10-14-2013)

§ 140.48 INTERNATIONAL BUILDING CODE; SECTION 1613; DELETED.

Section 1613 to the International Building Code (Earthquake Loads) is deleted in its entirety.
(Ord. 2013-8.1, § 48, passed 10-14-2013)

§ 140.49 INTERNATIONAL BUILDING CODE; SECTION 1804.4; DELETED.

Section 1804.4 to the International Building Code (Grading and Fill in Flood Hazard Areas) is deleted in its entirety.
(Ord. 2013-8.1, § 49, passed 10-14-2013)

§ 140.50 INTERNATIONAL BUILDING CODE; SECTION 1805.1.2.1; DELETED.

Section 1805.1.2.1 to the International Building Code (Flood Hazard Areas) is deleted in its entirety.
(Ord. 2013-8.1, § 50, passed 10-14-2013)

§ 140.51 INTERNATIONAL BUILDING CODE; SECTION 1809.5; AMENDED.

Section 1809.5 to the International Building Code is amended to read as follows:

1809.5 Frost protection. Foundation walls, piers, and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:

1. Extending below the frost line of the locality; or
2. Erecting on solid rock.

Exception: Free-standing buildings meeting all of the following conditions shall not be required to be protected:

1. Classified in Occupancy Category I, in accordance with Section 1604.5;
2. Area of 600 square feet (56 m²) or less for light-frame construction or 400 square feet (37 m²) or less for other than light-frame construction; and
3. Eave height of 10 feet (3048 mm) or less.

Bennet – Structural Safety

Footings shall not bear on frozen soil unless such condition is of a permanent character.
(Ord. 2013-8.1, § 51, passed 10-14-2013)

§ 140.52 INTERNATIONAL BUILDING CODE; SECTION 2304.11.5.1; ADDED.

Section 2304.11.5.1 to the International Building Code is added to read as follows:

2304.11.5.1 Deck supporting structure. Decks shall be supported by a continuous column and shall not be supported by the deck below.

(Ord. 2013-8.1, § 52, passed 10-14-2013)

§ 140.53 INTERNATIONAL BUILDING CODE; TABLE 2308.8(1); DELETED.

Table 2308.8(1) to the International Building Code (Floor Joist Spans for Common Lumber Species (Residential Sleeping Areas)) is deleted in its entirety.

(Ord. 2013-8.1, § 53, passed 10-14-2013)

§ 140.54 INTERNATIONAL BUILDING CODE; SECTION 2410; ADDED.

Section 2410 to the International Building Code is added to read as follows:

SECTION 2410 WINDOW CLEANING/EXTERIOR MAINTENANCE, ANCHORAGE SYSTEMS

2410.1 Window Cleaning/Exterior Maintenance, Anchorage Systems. All buildings where window cleaning or exterior maintenance is performed employing suspended equipment shall be equipped with roof anchorage or other approved devices that will provide for safe use of the equipment in conformance with the provisions of ANSI IWCA I-14.1. Grading and landscaping shall be considered in determining the probability of suspended equipment being necessary.

(Ord. 2013-8.1, § 54, passed 10-14-2013)

§ 140.55 INTERNATIONAL BUILDING CODE; CHAPTERS 27, 28 AND 29; DELETED.

Chapters 27 (Electrical), 28 (Mechanical Systems) and 29 (Plumbing Systems) to the International Building Code are deleted in their entirety.

(Ord. 2013-8.1, § 55, passed 10-14-2013)

Bennet Building Code

§ 140.56 INTERNATIONAL BUILDING CODE; SECTION 3109; DELETED.

Section 3109 to the International Building Code (Swimming Pool Enclosures and Safety Devices) is deleted in its entirety.
(Ord. 2013-8.1, § 56, passed 10-14-2013)

§ 140.57 INTERNATIONAL BUILDING CODE; SECTIONS 3202.3.2 AND 3202.3.3; DELETED.

Sections 3202.3.2 and 3202.3.3 to the International Building Code (Windows, Balconies, Architectural Features and Mechanical Equipment) and (Encroachments 15 Feet or more above Grade) are deleted in their entirety.
(Ord. 2013-8.1, § 57, passed 10-14-2013)

§ 140.58 INTERNATIONAL BUILDING CODE; SECTION 3202.5; ADDED.

Section 3202.5 to the International Building Code is added to read as follows:

3202.5 Ornamental facing. Ornamental facing may be attached to an existing building provided such building has been in existence for more than ten years. Such ornamental facing may extend not more than 8 inches (203 mm) beyond the lot line on any village street, sidewalk, or other public ground where such building is so located that it cannot be refaced without such occupancy of public property; provided such occupancy is not prohibited by state or federal regulations; and provided further such ornamental facing shall not be less than 9 feet (2743 mm) in the clear above the sidewalk, street level, or finish grade immediately below. Ornamental facing may be added to existing buildings provided it not extend more than 2 inches (52mm) beyond the lot line on the public ground to the finish grade.
(Ord. 2013-8.1, § 58, passed 10-14-2013)

§ 140.59 INTERNATIONAL BUILDING CODE; SECTION 3303; AMENDED.

Section 3303 to the International Building Code is amended to read as follows:

SECTION 3303 DEMOLITION OF BUILDINGS

3303.1 Purpose. The purpose of this section is to regulate and provide minimum standards for the demolition of buildings.

3303.2 Definition. For the purpose of this section, the word “demolish” is defined as follows: Demolish shall mean and include the razing, tearing down, or removal of all or part of a building; the removal of the outer facing of a building but leaving a skeleton or structural frame; or the removal of an upper story or stories of a building. Demolish shall also include “deconstruction”

Bennet – Structural Safety

which is the whole or partial disassembly of structures for the purposes of reusing salvaged building materials.

3303.3 Demolition permit.

3303.3.1 Permit required. No person shall demolish or remove a building, or part thereof, without first having obtained a permit therefor from the building official.

3303.3.2 Application for permit. To obtain a demolition permit the applicant shall first file an application therefor in writing on a form furnished by the building official. Such application shall set forth a statement of the facts necessary to fully describe the building, its use, its legal description, and address. Provisions shall be made by the applicant for the proper abandonment of all utilities as required by this code before a demolition permit may be issued. Applications for demolition permits shall expire 180 days after the application date.

3303.4 Advisory note; safety requirements. All demolition work should be performed in conformance with “Safety Requirements for Demolition,” ANSI A10.6-1990 as published by American National Standards Institute, Inc.

3303.5 Liability insurance. Whenever any building which is to be demolished has been used, or is being used, for any occupancy group except detached one- or two-family occupancies, the person applying for the demolition permit shall, as a part of the application, be required to:

1. At all times maintain public liability insurance coverage for all claims arising out of all work in the Village of Bennet and within 1 mile of the corporate limits thereof done by or under the supervision of the demolition contractor under the provisions of this code. Such insurance shall be in the form of a commercial or comprehensive general liability policy, or an acceptable substitute policy form as permitted by the Village Attorney, with a minimum combined single limit of \$500,000.00 aggregate for any one occurrence on any job for which a permit is required under this code, provided the Village of Bennet shall be named an additional insured thereunder. The coverages required herein shall be subject to review and approval by the Village Attorney for conformance with the provisions of this section.

2. At all times keep on file with the building official a current certificate of insurance signed by a qualified agent of an insurance company licensed to do business in the state of Nebraska and approved by the Village Attorney for conformance with the provisions of this section evidencing the existence of valid and effective policies of insurance naming the village as an additional insured for the coverage required by subsection 1 of this section, the limits of each policy, the policy number, the name of the insurer, the effective date and expiration date of each policy, the deductibles or self-insurance retainers of each policy, and a copy of an endorsement placed on each policy requiring 30 days notice by mail to the building official before the insurer may cancel the policy for any reason, and upon request of the building official or the Village Attorney, a copy of any endorsements placed on such policies or the declarations page of such policies. Any termination, reduction, or lapse of such insurance shall automatically terminate the privilege of the demolition contractor to be issued permits under the provisions of this code, unless other insurance

Bennet Building Code

meeting the requirements of this section is provided and in full force and effect at the time of such termination or cancellation.

Where the building official determines that the proposed demolition of a building involves a greater risk than normal, the building official may require a certificate evidencing liability coverage in excess of the minimum sum stated above.

3303.6 Permit fees. A fee for each demolition permit shall be paid to the building official as set forth in the Bennet Fee Schedule.

Where work for which a permit is required by this chapter is commenced prior to obtaining said permit, the fees above specified shall be doubled. The payment of such double fee shall not relieve any person from fully complying with the requirements of this chapter in the execution of the work or from any other penalties prescribed herein.

The applicant shall apply and pay for any street use permit, any permit for parking meters which shall be out of use during the demolition. Fee refunds shall be in accordance with Section 109.6.

3303.7 Utility disconnection. All water and sanitary sewer services shall be disconnected and sealed and said disconnects shall be inspected and approved by the Bennet Utility Superintendent.

3303.8 Completion of demolition work. All demolition work, including the removal of the foundation, must start within 30 days and must be completed within 60 days from the date of the demolition permit issuance. Upon completion of the demolition work, the applicant shall clean the premises of all debris, request an inspection of the premises and then fill all excavations and grade the area with top soil or other material approved by the building official.

3303.9 Building official may stop demolition. The building official shall have the authority to stop the demolition or removal of any building or structure or part thereof, when the same is being done in a reckless or careless manner, or in violation of the provisions of this chapter or any other ordinances of the village. When such work is stopped by order of the building official, it shall not be resumed without approval of the building official.

A demolition permit may be revoked by the building official at any time upon a violation of the terms thereof, or upon a violation of any provision of this chapter or any other ordinance of the village.

3303.10 Securing the demolition site. All demolition sites shall be secured at all times during the demolition process.

3303.11 Expiration. All demolition permits shall expire after 60 days from issuance. The building official may allow an extension of 30 days due to extenuating circumstances. Demolition must be completed in accordance with 3303.8.

(Ord. 2013-8.1, § 59, passed 10-14-2013)

§ 140.60 INTERNATIONAL BUILDING CODE; SECTION 3306.2; AMENDED.

Section 3306.2 to the International Building Code is amended to read as follows:

3306.2 Walkways. A walkway shall be provided for pedestrian travel in front of every construction and demolition site unless the applicable governing authority authorizes the sidewalk to be fenced or closed. Walkways shall be of sufficient width to accommodate the pedestrian traffic, but in no case shall they be less than 4 feet (1219 mm) in width. Walkways shall be provided with a durable walking surface and shall be designed to be accessible in accordance with Nebraska Accessibility Guidelines.

(Ord. 2013-8.1, § 60, passed 10-14-2013)

§ 140.61 INTERNATIONAL BUILDING CODE; SECTION 3306.4; AMENDED.

Section 3306.4 to the International Building Code is amended to read as follows:

3306.4 Construction fences. Construction fences shall be at least 4 feet (1219 mm) in height and shall be securely anchored at each end and every 15 feet (4572 mm) of length. The largest opening in the fence shall be such that a 6-inch (152 mm) sphere may not pass through it. The fence shall be erected a distance from the building equal to the height of the building or as otherwise approved by the building official. For the purposes of this section, construction fences shall also mean construction railings.

(Ord. 2013-8.1, § 61, passed 10-14-2013)

§ 140.62 INTERNATIONAL BUILDING CODE; SECTION 3306.7; DELETED.

Section 3306.7 to the International Building Code (Covered Walkways) is deleted in its entirety.

(Ord. 2013-8.1, § 62, passed 10-14-2013)

§ 140.63 INTERNATIONAL BUILDING CODE; APPENDIX C; ADOPTED.

Appendix C of the International Building Code (Group U – Agricultural Buildings) is hereby adopted.

(Ord. 2013-8.1, § 63, passed 10-14-2013)

§ 140.64 INTERNATIONAL BUILDING CODE; APPENDIX C; SECTION C105; ADDED.

Section C105 is added to Appendix C of the International Building Code to read as follows:

Bennet Building Code

C105 ROOF SNOW LOAD

C105.1 Agricultural buildings located in the A-1 zoning district as regulated by the Bennet Zoning Code shall be designed for a minimum of 20# roof snow load.
(Ord. 2013-8.1, § 64, passed 10-14-2013)

CHAPTER 141: BENNET RESIDENTIAL CODE

Sections:

141.01	International Residential Code, 2009 Edition; Adoption by Reference; Application to Extraterritorial Zoning Jurisdiction
141.02	International Residential Code; Section R101.1; Amended
141.03	International Residential Code; Section R101.3; Amended
141.04	International Residential Code; Section R103; Deleted
141.05	International Residential Code; Section R105.2; Amended
141.06	International Residential Code; Section R105.3.1.1; Amended
141.07	International Residential Code; Section R107; Deleted
141.08	International Residential Code; Section R108; Amended
141.09	International Residential Code; Section R109.1; Amended
141.10	International Residential Code; Section R109.1.2; Amended
141.11	International Residential Code; Section R109.1.4; Amended
141.12	International Residential Code; Section R109.1.7; Added
141.13	International Residential Code; Section R109.5; Added
141.14	International Residential Code; Section R110.2 and R110.3; Amended
141.15	International Residential Code; Section R115; Added
141.16	International Residential Code; Section R301.2.4; Amended
141.17	International Residential Code; Table R301.2(1); Amended
141.18	International Residential Code; Table R301.5; Amended
141.19	International Residential Code; Table R301.7; Amended
141.20	International Residential Code; Section R302.1; Amended
141.21	International Residential Code; Table R302.1; Amended
141.22	International Residential Code; Section R302.2; Amended
141.23	International Residential Code; Section R302.3; Amended
141.24	International Residential Code; Section R302.5.2; Deleted
141.25	International Residential Code; Section R302.6; Amended
141.26	International Residential Code; Table R302.6; Amended
141.27	International Residential Code; Section R302.12; Amended
141.28	International Residential Code; Section R303.1; Exception 2; Amended
141.29	International Residential Code; Section R303.3; Amended
141.30	International Residential Code; Section R303.4; Deleted
141.31	International Residential Code; Section R303.5; Deleted
141.32	International Residential Code; Section R305; Amended
141.33	International Residential Code; Section R306.2; Amended
141.34	International Residential Code; Figure R307.1; Amended
141.35	International Residential Code; Section R307.3; Added
141.36	International Residential Code; Section R309.3; Amended
141.37	International Residential Code; Section R309.5; Added
141.38	International Residential Code; Section R310.1; Amended
141.39	International Residential Code; Section R310.3; Amended
141.40	International Residential Code; Section R311.3.2; Amended

Bennet – Structural Safety

141.41	International Residential Code; Section R311.7; Amended
141.42	International Residential Code; Section R312; Amended
141.43	International Residential Code; Section R313; Deleted
141.44	International Residential Code; Section R314.3; Amended
141.45	International Residential Code; Section R314.4; Amended
141.46	International Residential Code; Section R315; Amended
141.47	International Residential Code; Section R317.1; Amended
141.48	International Residential Code; Section R317.1.2; Deleted
141.49	International Residential Code; Section R317.1.4; Amended
141.50	International Residential Code; Section R319; Amended
141.51	International Residential Code; Section R320; Deleted
141.52	International Residential Code; Section R322; Deleted
141.53	International Residential Code; Table R401.4.1; Amended
141.54	International Residential Code; Section R403.1; Amended
141.55	International Residential Code; Section R403.1.1; Amended
141.56	International Residential Code; Table R403.1; Amended
141.57	International Residential Code; Figure R403.1(1); Amended
141.58	International Residential Code; Section R403.1.3.2; Amended
141.59	International Residential Code; Section R403.1.4.1; Amended
141.60	International Residential Code; Section R403.1.6; Amended
141.61	International Residential Code; Section R403.3; Deleted
141.62	International Residential Code; Section R403.4; Amended
141.63	International Residential Code; Section R403.4.1; Deleted
141.64	International Residential Code; Table R403.4; Deleted
141.65	International Residential Code; Table R404.1.1(1); Deleted
141.66	International Residential Code; Figure R404.1.1(3); Added
141.67	International Residential Code; Table R404.1.2(1); Deleted
141.68	International Residential Code; Table R404.1.2(2); Deleted
141.69	International Residential Code; Table R404.1.2(3); Deleted
141.70	International Residential Code; Table R404.1.2(4); Deleted
141.71	International Residential Code; Table R404.1.2(8); Deleted
141.72	International Residential Code; Table R404.1.2(9); Deleted
141.73	International Residential Code; Section R404.1.2.2; Amended
141.74	International Residential Code; Figures R404.1.2.2(1) through R404.1.2.2(9); and Figure R404.1.2.2.1 Added
141.75	International Residential Code; Section R404.1.5.2; Amended
141.76	International Residential Code; Figure R404.1.5.2; Added
141.77	International Residential Code; Section R408.7; Deleted
141.78	International Residential Code; Section R502.2.2.3; Amended
141.79	International Residential Code; Section R502.3; Amended
141.80	International Residential Code; Sections R502.3.1, R502.3.2, R502.3.3, Table R502.3.1(1), Table R502.3.3(1) and Table R502.3.3(2); Deleted
141.81	International Residential Code; Section R502.7; Amended
141.82	International Residential Code; Section R502.10; Amended
141.83	International Residential Code; Section R601.3; Amended
141.84	International Residential Code; Figure R602.10.3.5; Added

Bennet Residential Code

141.85	International Residential Code; Figure R602.10.4; Added
141.86	International Residential Code; Section R703.1; Amended
141.87	International Residential Code; Table R703.7.3.1; Deleted
141.88	International Residential Code; Section R703.7.3; Deleted
141.89	International Residential Code; Section R703.7.4; Amended
141.90	International Residential Code; Section R703.7.4.2; Deleted
141.91	International Residential Code; Figure R703.7; Deleted
141.92	International Residential Code; Section R703.7.5; Amended
141.93	International Residential Code; Section R703.7.6; Amended
141.94	International Residential Code; Section R703.8; Amended
141.95	International Residential Code; Section R703.9.2.1; Amended
141.96	International Residential Code; Section R703.9.2.2; Amended
141.97	International Residential Code; Section R703.12.1; Added
141.98	International Residential Code; Section R802.3; Amended
141.99	International Residential Code; Section R905.2.7.1; Amended
141.100	International Residential Code; Section R907.3; Amended
141.101	International Residential Code; Section R1003.11; Deleted
141.102	International Residential Code; Section R1003.11.2; Deleted
141.103	International Residential Code; Section R1003.11.3; Deleted
141.104	International Residential Code; Section R1003.11.4; Amended
141.105	International Residential Code; Section R1003.11.5; Deleted
141.106	International Residential Code; Section R1003.14; Deleted
141.107	International Residential Code; Section R1004.4; Deleted
141.108	International Residential Code; Chapter 11; Deleted
141.109	International Residential Code; Chapters 19 through 22, and 24 through 42; Deleted

BENNET RESIDENTIAL CODE

§ 141.01 INTERNATIONAL RESIDENTIAL CODE, 2009 EDITION; ADOPTION BY REFERENCE; APPLICATION TO EXTRATERRITORIAL ZONING JURISDICTION.

Except as hereinafter provided by specific amendment, the International Residential Code, 2009 Edition, as published by the International Code Council, Inc., a copy of which is on file in the office of the Village Clerk/Treasurer, be and the same is hereby adopted as the Residential Code for the Village of Bennet and for the area within its extraterritorial zoning jurisdiction, for the purpose of regulating and governing the construction, alteration, enlargement, replacement, repair, equipment, location, removal, and demolition of detached one- and two-single-family dwellings (townhouses) not more than 3 stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefor; with the additions, insertions, deletions, and changes as hereinafter provided in this Chapter.

Bennet – Structural Safety

(1994 Code, § 9-102) (Ord. 2005-11.1, passed 11-14-2005; Am. Ord. 2005-12.2, passed 12-12-2005; Am. Ord. 2013-8.2, § 1, passed 10-14-2013)

§ 141.02 INTERNATIONAL RESIDENTIAL CODE; SECTION R101.1; AMENDED.

Section R101.1 of the International Residential Code is amended to read as follows:

R101.1 Title. These provisions shall be known as the Bennet Residential Code and shall be cited as such and will be referred to herein as “this code.”
(Ord. 2013-8.2, § 2, passed 10-14-2013)

§ 141.03 INTERNATIONAL RESIDENTIAL CODE; SECTION R101.3; AMENDED.

Section R101.3 of the International Residential Code is amended to read as follows:

R101.3 Intent. The purpose of this code is to establish the minimum requirements to safeguard the public safety, health, and general welfare through affordability, structural strength, means of egress facilities, stability, sanitation, light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributable to the built environment.
(Ord. 2013-8.2, § 3, passed 10-14-2013)

§ 141.04 INTERNATIONAL RESIDENTIAL CODE; SECTION R103; DELETED.

Section R103 of the International Residential Code (Department of Building Safety) is deleted in its entirety.
(Ord. 2013-8.2, § 4, passed 10-14-2013)

§ 141.05 INTERNATIONAL RESIDENTIAL CODE; SECTION R105.2; AMENDED.

That Section R105.2 of the International Residential Code is amended to read as follows:

R105.2 Work exempt from permit. Permits shall not be required for the following. Exemptions from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

1. One story detached accessory structures, provided the floor area does not exceed 200 square feet (18.58 m²).
2. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.

Bennet Residential Code

3. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18927 L) and the ratio of height to diameter or width does not exceed 2 to 1.
4. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade and not over any basement or story below.
5. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
6. Prefabricated swimming pools that are less than 24 inches (610 mm) deep.
7. Swings and other playground equipment accessory to a one- or two-family dwelling.
8. Window awnings supported by an exterior wall which do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.
9. Shingling and residing.
(Ord. 2013-8.2, § 5, passed 10-14-2013)

§ 141.06 INTERNATIONAL RESIDENTIAL CODE; SECTION R105.3.1.1; AMENDED.

Section R105.3.1.1 of the International Residential Code is amended to read as follows:

R105.3.1.1 Determination of substantially improved or substantially damaged existing buildings in flood hazard areas. For buildings located in a floodplain within the village's zoning jurisdiction, the regulations and specifications set forth in the Bennet Zoning Regulations Section 152.053 shall apply.
(Ord. 2013-8.2, § 6, passed 10-14-2013)

§ 141.07 INTERNATIONAL RESIDENTIAL CODE; SECTION R107; DELETED.

Section R107 of the International Residential Code (Temporary Structures and Uses) is hereby deleted in its entirety.
(Ord. 2013-8.2, § 7, passed 10-14-2013)

§ 141.08 INTERNATIONAL RESIDENTIAL CODE; SECTION R108; AMENDED.

Section 108 of the International Residential Code is amended to read as follows:

Bennet – Structural Safety

SECTION R108 FEES

R108.1 Payment of fees. A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment for a permit be released until the additional fee, if any, has been paid.

R108.2 Schedule of permit fees. For each permit to be issued, and for any plan review or inspection to be conducted under this code.

R108.3 Plan review fees. When a plan or other data is required to be submitted by Section R105.3, a plan review fee shall be paid at the rate stated in the Bennet Schedule of Permit Fees. One additional plan review of corrections made on the original plans after the initial plan review shall be performed at no cost to the applicant; however, where plans require further corrections, are incomplete, or are changed necessitating additional plan review, an additional plan review fee shall be charged at the rate stated in the Schedule of Permit Fees.

R108.4 Related fees. The payment of the fee for construction, alteration, removal, or demolition for work done in connection with or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

R108.5 Refunds. There shall be no refunds or credits given on permits or applications regulated by this Chapter that have expired. A request for refund may be made to the Village Board of Trustees only when the permit holder returns an unused permit prior to the expiration of the permit. A refund of plan review fee may be requested only when an application for a permit for which such fee has been paid is withdrawn or cancelled before any plan review is done.

R108.6 Work commencing before permit issuance. Any person who commences any work requiring a permit on a building, structure, electrical, gas, mechanical, or plumbing system before obtaining the necessary permits shall be subject to a fee equal to twice the otherwise established fee for issuance of the required permit.
(Ord. 2013-8.2, § 8, passed 10-14-2013)

§ 141.09 INTERNATIONAL RESIDENTIAL CODE; SECTION R109.1; AMENDED.

Section R109.1 of the International Residential Code is amended to read as follows:

R109.1 Types of inspections. All construction or work for which a permit is required shall be subject to inspection by the building official and all such construction work shall remain accessible and exposed for inspection purposes until approved by the building official.

Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the village.

Bennet Residential Code

A survey of the lot or lots upon which permitted work for additions, alterations, or repairs are being accomplished shall be provided by a duly licensed surveyor of the state of Nebraska before plans and specifications shall be accepted by the building official to verify compliance of the construction or work with building line setback requirements of the Bennet Zoning Code. All boundary corners of a lot or lots with permanent survey monuments shall be marked in the field by a duly licensed surveyor of the state of Nebraska.

It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the village shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.
(Ord. 2013-8.2, § 9, passed 10-14-2013)

§ 141.10 INTERNATIONAL RESIDENTIAL CODE; SECTION R109.1.2; AMENDED.

Section R109.1.2 of the International Residential Code is amended to read as follows:

R109.1.2 Plumbing, mechanical, and gas systems inspection. Rough inspection of plumbing, mechanical and gas systems shall be made prior to covering or concealment, before fixtures or appliances are set or installed, and prior to framing inspection.
(Ord. 2013-8.2, § 10, passed 10-14-2013)

§ 141.11 INTERNATIONAL RESIDENTIAL CODE; SECTION R109.1.4; AMENDED.

Section R109.1.4 of the International Residential Code be amended to read as follows:

R109.1.4 Frame inspection. Inspection of framing construction shall be made after all framing, firestopping, draftstopping, and bracing are in place and after the water-resistive barrier and flashing is installed but before the exterior wall covering is installed.
(Ord. 2013-8.2, § 11, passed 10-14-2013)

§ 141.12 INTERNATIONAL RESIDENTIAL CODE; SECTION R109.1.7; ADDED.

Section R109.1.7 is added to the International Residential Code to read as follows:

R109.1.7 Reinspections. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. Reinspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the building official.
(Ord. 2013-8.2, § 12, passed 10-14-2013)

§ 141.13 INTERNATIONAL RESIDENTIAL CODE; SECTION R109.5; ADDED.

Section R109.5 is added to the International Residential Code to read as follows:

R109.5 Address identification. All additions, alterations, or repairs for which a permit is required by this code shall be provided with a construction address identification sign. Said identification sign shall be a sign of metal, wood, plastic, or other approved rigid material with permanent identification numbers and letters thereon indicating the legally assigned street or other type address assigned by the building official. Said identification sign shall have numbers and letters of such size and shall be so placed upon the construction site that said sign is readily visible and identifiable from the public street. Said identification sign shall be properly maintained during the entire period of time that the construction or work is being accomplished or maintained.
(Ord. 2013-8.2, § 13, passed 10-14-2013)

§ 141.14 INTERNATIONAL RESIDENTIAL CODE; SECTION R110.2 AND R110.3; AMENDED.

That Sections R110.2 and R110.3 of the International Residential Code are amended to read as follows:

R110.2 Change in use. Changes in the character or use of a building shall not be made except as specified in Chapter 34, Section 3408, of the International Building Code.

R110.3 Certificate issued. After the building official inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the village, the building official shall issue a certificate of occupancy.
(Ord. 2013-8.2, § 14, passed 10-14-2013)

§ 141.15 INTERNATIONAL RESIDENTIAL CODE; SECTION R115; ADDED.

Section R115 is added to the International Residential Code to read as follows:

**SECTION R115
DEMOLITION OF BUILDINGS**

R115.1 General. Demolition of buildings shall comply with Section 3303 of the International Building Code as adopted by the Village of Bennet in the Bennet Municipal Code. Demolition under this code must start within 30 days and be completed 60 days after the date the permit was issued. The building official may extend a demolition permit an additional 30 days. Applications for demolition permits shall expire 180 days after the application date.
(Ord. 2013-8.2, § 15, passed 10-14-2013)

Bennet Residential Code

§ 141.16 INTERNATIONAL RESIDENTIAL CODE; SECTION R301.2.4; AMENDED.

Section R301.2.4 of the International Residential Code is amended to read as follows:

R301.2.4 Floodplain construction. For buildings located in a floodplain within the village's zoning jurisdiction, the provisions of Section 152.053 of the Bennet Zoning Regulations shall apply.

(Ord. 2013-8.2, § 16, passed 10-14-2013)

§ 141.17 INTERNATIONAL RESIDENTIAL CODE; TABLE R301.2(1); AMENDED.

Table R301.2(1) of the International Residential Code is amended to read as follows:

**TABLE R301.2(1)
CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA**

GROUND SNOW LOAD	WIND SPEED ^d (mph)	SEISMIC DESIGN CATEGORY ^f	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP ^e	ICE BARRIER UNDERLAYMENT REQUIRED ^h	FLOOD HAZARDS ^g
			Weathering ^a	Frost Line Depth ^b	Termite ^c			
30 psf	90 mph	B	Severe	36"	Moderate to Heavy	70° F	Yes	See HZR Sec. 5.18

All footnotes to Table R301.2(1) of this code shall apply.
(Ord. 2013-8.2, § 17, passed 10-14-2013)

§ 141.18 INTERNATIONAL RESIDENTIAL CODE; TABLE R301.5; AMENDED.

Table R301.5 of the International Residential Code is amended to read as follows:

Bennet – Structural Safety

TABLE R301.5
MINIMUM UNIFORMLY DISTRIBUTED LIVE LOADS
(in pounds per square foot)

USE	LIVE LOAD
Attics with limited storage ^{b, g, h}	20
Attics without storage ^b	10
Attics served with a fixed stairs	40
Decks and exterior balconies ^e	40
Fire escapes	40
Guardrails and handrails ^d	200 ^h
Guardrails in-fill components ^f	50 ^h
Passenger vehicle garages ^a	50 ^a
Rooms other than sleeping rooms	40
Sleeping rooms	40
Stairs	40 ^c

For SI: 1 pound per square foot = 0.0479 kPa, 1 square inch = 645 mm²,
1 pound = 4.45 N.

All footnotes to Table No. R301.5 of this code shall apply.
(Ord. 2013-8.2, § 18, passed 10-14-2013)

§ 141.19 INTERNATIONAL RESIDENTIAL CODE; TABLE R301.7; AMENDED.

Table R301.7 of the International Residential Code is amended to read as follows:

Bennet Residential Code

TABLE R301.7
ALLOWABLE DEFLECTION OF STRUCTURAL MEMBERS^{a,b,c,d,e}

STRUCTURAL MEMBER	ALLOWABLE DEFLECTION
Rafters having slopes greater than 3:12 with no finished ceiling attached to rafters	L/180
Interior walls and partitions	H/240
All other structural members L/240	L/240
Exterior walls with plaster or stucco finish	H/360
Exterior walls —wind loads ^a with brittle finishes	H/240
Exterior walls—wind loads ^a with flexible finishes	H/180
Floors – 16'6" or less	L/360
Floors over 16'6" span	L/480

Note: L = span length, H = span height.

All footnotes to Table R301.7 of this code shall apply.
(Ord. 2013-8.2, § 19, passed 10-14-2013)

§ 141.20 INTERNATIONAL RESIDENTIAL CODE; SECTION R302.1; AMENDED.

Section R302.1 of the International Residential Code is amended to read as follows:

R302.1 Exterior walls. Construction, projections, openings and penetrations of exterior walls of dwellings and accessory buildings shall comply with Table R302.1. These provisions shall not apply to walls, projections, openings or penetrations in walls that are perpendicular to the line used to determine the fire separation distance. Projections beyond the exterior wall shall not extend more than 12 inches into the areas where openings are prohibited. No part of a detached structure shall be closer than 2 feet from a lot line.

Exceptions:

1. Detached tool sheds and storage sheds, playhouses and similar structures exempted from permits are not required to provide wall protection based on location on the lot. Projections beyond the exterior wall shall not extend over the lot line.
2. An accessory building located less than 6 feet from a dwelling unit including decks greater than 30 inches above grade, shall be protected with no less than 5/8-inch Type X gypsum

Bennet – Structural Safety

board applied to the interior side of the walls and the ceiling. The door shall be no less than a solid core or steel door no less than 1¾-inch thickness. No other openings shall be permitted. (Ord. 2013-8.2, § 20, passed 10-14-2013)

§ 141.21 INTERNATIONAL RESIDENTIAL CODE; TABLE R302.1; AMENDED.

Table R302.1 of the International Residential Code is amended to read as follows:

**TABLE R302.1
EXTERIOR WALLS**

EXTERIOR WALL ELEMENT		MINIMUM FIRE-RESISTANCE RATING	MINIMUM FIRE SEPARATION DISTANCE
Walls	(Fire-resistance rated)	1 hour with exposure from both sides*	0 feet
	(Not fire-resistance rated)	0 hours	>5 feet
Projections	(Fire-resistance rated)	1 hour on the underside	<3 feet
	(Not fire-resistance rated)	0 hours	> or = 3 feet
Openings	Not allowed	N/A	<3 feet
	25% maximum of wall area	0 hours	3 feet
	Unlimited	0 hours	5 feet
Penetrations	All	Comply with Section R317.3	<5 feet
		None required	5 feet

*Detached Garages – 1 hour protection from the inside only.
(Ord. 2013-8.2, § 21, passed 10-14-2013)

§ 141.22 INTERNATIONAL RESIDENTIAL CODE; SECTION R302.2; AMENDED.

Section R302.2 of the International Residential Code is amended to read as follows:

R302.2 Townhouses. Each townhouse shall be considered a separate building and shall be separated by fire-resistance-rated wall assemblies meeting the requirements of Section R302.1 for exterior walls.

Exception: A common 2-hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Electrical installations shall be installed in accordance with the Village of Bennet Electrical Code. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

R302.2.1 Continuity. The fire-resistant-rated wall or assembly separating townhouses shall be continuous from the foundation to the underside of the roof sheathing, deck or slab. The fire-resistance rating shall extend the full length of the wall or assembly, including wall extensions through and separating attached enclosed accessory structures.

Bennet Residential Code

R302.2.2 Parapets. Parapets constructed in accordance with Section R302.2.3 shall be constructed for townhouses as an extension of exterior walls or common walls in accordance with the following:

1. Where roof surfaces adjacent to the wall or walls are at the same elevation, the parapet shall extend not less than 30 inches above the roof surfaces.
2. Where roof surfaces adjacent to the wall or walls are at different elevations and the higher roof is not more than 30 inches above the lower roof, the parapet shall extend not less than 30 inches above the lower roof surface.

Exception: A parapet is not required in the two cases above when the roof is covered with a minimum class C roof covering, and the roof decking or sheathing is of noncombustible materials or approved fire-retardant-treated wood for a distance of 4 feet on each side of the wall or walls, or one layer of $\frac{5}{8}$ -inch Type X gypsum board is installed directly beneath the roof decking or sheathing, supported by a minimum of nominal 2-inch ledgers attached to the sides of the roof framing members, for a minimum distance of 4 feet on each side of the wall or walls.

3. A parapet is not required where roof surfaces adjacent to the wall or walls are at different elevations and the higher roof is more than 30 inches above the lower roof. The common wall construction from the lower roof to the underside of the higher roof deck shall have not less than a 1-hour fire-resistance rating. The wall shall be rated for exposure from both sides.

4. Penetration and openings in the roof shall not be located within 5 feet of the property line.

R302.2.3 Parapet construction. Parapets shall have the same fire-resistance rating as that required for the supporting wall or walls. On any side adjacent to a roof surface, the parapet shall have noncombustible faces for the uppermost 18 inches (457 mm), to include counterflashing and coping materials. Where the roof slopes towards a parapet at slopes greater than 2 units vertical in 12 units horizontal (16.7-percent slope), the parapet shall extend to the same height as any portion of the roof within a distance of 3 feet (914 mm), but in no case shall the height be less than 30 inches (762 mm).

R302.2.4 Structural independence. Each individual townhouse shall be structurally independent.

Exceptions:

1. Foundations supporting exterior walls or common walls.
2. Structural roof and wall sheathing from each unit may fasten to the common wall framing.

Bennet – Structural Safety

3. Nonstructural wall and roof coverings.
4. Flashing at termination of roof covering over common wall.

Figure R302.2 (1) is added to the International Residential Code as shown on said figure at the end of this Chapter.

Figure R302.2 (2) is added to the International Residential Code as shown on said figure at the end of this Chapter.

Figure R302.2 (3) is added to the International Residential Code as shown on said figure at the end of this Chapter.

Figure R302.2 (4) is added to the International Residential Code as shown on said figure at the end of this Chapter.

(Ord. 2013-8.2, § 22, passed 10-14-2013)

§ 141.23 INTERNATIONAL RESIDENTIAL CODE; SECTION 302.3; AMENDED.

Section R302.3 of the International Residential Code is amended to read as follows:

R302.3 Two-family dwellings. Dwelling units in two-family dwellings shall be separated from each other by wall and/or floor assemblies of not less than 1-hour fire-resistive rating when tested in accordance with ASTM E 119. Fire-resistance-rated floor-ceiling and wall assemblies shall extend to and be tight against the exterior wall, and wall assemblies shall extend to the underside of the roof sheathing. The minimum connection between units of a two-family dwelling shall be an 8-foot roof connection measured parallel to the adjoining walls and connected to each unit.

Exceptions:

1. A fire resistance rating of ½ hour shall be permitted in buildings equipped throughout with an automatic sprinkler system installed in accordance with NFPA 13.
2. Where the common wall of the dwelling units is located on a property line, the units shall be separated by fire-resistance-rated wall assemblies meeting the requirements of Section R302 for exterior walls.
3. Wall assemblies need not extend through attic spaces when the ceiling is protected by not less than 5/8-inch Type X gypsum board and an attic draft stop constructed as specified in Section R502.12.1 is provided above and along the wall assembly separating the dwellings. The structural framing supporting the ceiling shall also be protected by not less than ½-inch gypsum board or equivalent.

(Ord. 2013-8.2, § 23, passed 10-14-2013)

Bennet Residential Code

§ 141.24 INTERNATIONAL RESIDENTIAL CODE; SECTION 302.5.2; DELETED.

Section R302.5.2 of the International Residential Code (Duct Penetration) is hereby deleted.
(Ord. 2013-8.2, § 24, passed 10-14-2013)

§ 141.25 INTERNATIONAL RESIDENTIAL CODE; SECTION R302.6; AMENDED.

Section R302.6 of the International Residential Code is amended to read as follows:

R302.6 Separation required. The garage shall be separated from the residence and its attic area by not less than $\frac{5}{8}$ -inch Type X gypsum board applied to the garage wall side. Garages beneath habitable rooms shall be separated from all habitable rooms above by not less than $\frac{5}{8}$ -inch Type X gypsum board or equivalent. Where the separation is a floor-ceiling assembly, the structure supporting the separation shall also be protected by not less than $\frac{5}{8}$ -inch Type X gypsum board or equivalent. A cantilever projecting over a garage door shall be protected on the underside by not less than $\frac{5}{8}$ -inch Type X gypsum board.

Garages located less than 6 feet from a dwelling unit on the same lot shall be protected with not less than $\frac{5}{8}$ -inch Type X gypsum board applied to the interior side of exterior walls that are within this area. Openings in these walls shall be regulated by Table R302.1. This provision does not apply to garage walls that are perpendicular to the adjacent dwelling unit wall. Accessory buildings 120 square feet or greater, located less than 6 feet from the residence shall be protected by not less than $\frac{5}{8}$ -inch Type X gypsum board applied to the interior side, with no openings permitted.
(Ord. 2013-8.2, § 25, passed 10-14-2013)

§ 141.26 INTERNATIONAL RESIDENTIAL CODE; TABLE R302.6; AMENDED.

Table R302.6 of the International Residential Code is amended to read as follows:

**TABLE R302.6
DWELLING/GARAGE SEPARATION**

SEPARATION	MATERIAL
From the residence and attics	Not less than $\frac{5}{8}$ -inch Type X gypsum board or equivalent applied to the garage side.
Structure(s) supporting floor/ceiling assemblies used for separation required by this section	Not less than $\frac{5}{8}$ -inch Type X gypsum board or equivalent.
Garages located less than 6 feet from a dwelling unit on the same lot	Not less than $\frac{5}{8}$ Type X gypsum board or equivalent applied to the interior side of exterior walls that area within this area.

(Ord. 2013-8.2, § 26, passed 10-14-2013)

§ 141.27 INTERNATIONAL RESIDENTIAL CODE; SECTION R302.12; AMENDED.

Section R302.12 of the International Residential Code is amended to read as follows:

R302.12 Draftstopping. In combustible construction where there is usable space both above and below the concealed space of a floor/ceiling assembly, draftstops shall be installed so that the area of the concealed space does not exceed 1,000 square feet. Draftstopping shall divide the concealed space into approximately equal areas. Where the assembly is enclosed by a floor membrane above and a ceiling membrane below, draftstopping shall be provided in floor/ceiling assemblies under the following circumstances:

1. Ceiling is suspended under the floor framing.
2. Floor framing is constructed of truss-type open-web or perforated members.

Attics in combustible construction. Draftstopping shall be installed so that no part of the attic is greater than 3,000 square feet in area.

(Ord. 2013-8.2, § 27, passed 10-14-2013)

§ 141.28 INTERNATIONAL RESIDENTIAL CODE; SECTION R303.1; EXCEPTION 2; AMENDED.

Exception 2 of Section 303.1 of the International Residential Code relating to habitable rooms is amended to read as follows:

2. The glazed areas shall not be required to be provided in habitable rooms in basements except for bedrooms where Exception 1 above is satisfied and artificial light is provided capable of producing an average illumination of 6 foot candles over the area of the room at a height of 30 inches above the floor level.

(Ord. 2013-8.2, § 28, passed 10-14-2013)

§ 141.29 INTERNATIONAL RESIDENTIAL CODE; SECTION R303.3; AMENDED.

Section R303.3 of the International Residential Code is amended to read as follows:

R303.3 Bathrooms. Bathrooms, water closet compartments, laundry rooms, and other similar rooms shall be provided with a mechanical ventilation system. The minimum ventilation rates shall be 50 cfm for intermittent ventilation or 20 cfm for continuous ventilation. Ventilation air from the space shall be exhausted directly to the outside.

In laundry rooms, dryers vented directly to the outside are deemed to meet the requirements of this section.

(Ord. 2013-8.2, § 29, passed 10-14-2013)

Bennet Residential Code

§ 141.30 INTERNATIONAL RESIDENTIAL CODE; SECTION R303.4; DELETED.

Section R303.4 of the International Residential Code (Opening Location) is deleted in its entirety.
(Ord. 2013-8.2, § 30, passed 10-14-2013)

§ 141.31 INTERNATIONAL RESIDENTIAL CODE; SECTION R303.5; DELETED.

Section R303.5 of the International Residential Code (Outside Opening Protection) is deleted in its entirety.
(Ord. 2013-8.2, § 31, passed 10-14-2013)

§ 141.32 INTERNATIONAL RESIDENTIAL CODE; SECTION R305; AMENDED.

Section R305 of the International Residential Code is amended to read as follows:

SECTION R305 CEILING HEIGHT

R305.1 Ceiling Heights. Habitable space shall have a ceiling height of not less than 7 feet 6 inches. The required height shall be measured from the finished floor to the lowest projection from the ceiling.

Exceptions:

1. Bathrooms, hallways, toilet rooms and laundry rooms shall have a ceiling height of not less than 7 feet.
2. For rooms with sloped ceilings, at least 50 percent of the required floor area of the room must have a ceiling height of at least 7 feet 6 inches. No portion of the room with a ceiling height of less than 5 feet shall be included.
3. The ceiling height above bathroom fixtures shall be such that the fixture is capable of being used for its intended purpose. A shower or tub equipped with a showerhead shall have a minimum ceiling height of 6 feet 8 inches above a minimum area 30 inches by 30 inches at the showerhead.

R305.1.1 Basements. Habitable space in basements within a single family dwelling unit shall have a ceiling height of not less than 7 feet.

Exceptions:

1. Beams, soffits, ducts and piping shall not be less than 6 feet 6 inches from the floor and shall not exceed $\frac{1}{3}$ of the total ceiling area of the room.

Bennet – Structural Safety

2. Bathrooms, hallways, toilet rooms and laundry rooms shall have a minimum ceiling height of 6 feet 8 inches.
 3. Lighting fixtures shall be a minimum of 6 feet 6 inches above the floor.
 4. Ceiling fans shall be a minimum of 7 feet from the floor.
- (Ord. 2013-8.2, § 32, passed 10-14-2013)

§ 141.33 INTERNATIONAL RESIDENTIAL CODE; SECTION R306.2; AMENDED.

Section R306.2 of the International Residential Code is amended to read as follows:

R306.2 Kitchen. Each dwelling unit shall be provided with a kitchen area and every kitchen area shall be provided with a sink. Domestic free-standing or built-in ranges shall have a vertical clearance above the cooking top of not less than 30 inches to unprotected combustible material. When the underside of such combustible material is protected with insulating millboard at least ¼-inch thick covered with 28 gage metal or a metal ventilating hood, the distance shall be not less than 24 inches.

(Ord. 2013-8.2, § 33, passed 10-14-2013)

§ 141.34 INTERNATIONAL RESIDENTIAL CODE; FIGURE R307.1; AMENDED.

Figure R307.1 of the International Residential Code (Minimum Fixture Clearances) is amended as shown on said figure at the end of this Chapter.

(Ord. 2013-8.2, § 34, passed 10-14-2013)

§ 141.35 INTERNATIONAL RESIDENTIAL CODE; SECTION R307.3; ADDED.

Section R307.3 is added to the International Residential Code to read as follows:

R307.3 Access to whirlpool pump. Access shall be provided to circulation pumps in accordance with the fixture manufacturer's installation instructions. Where the manufacturer's instructions do not specify the location and minimum size of field fabricated access openings, a 12-inch by 12-inch minimum size opening shall be installed to provide access to the circulation pump. Where pumps are located more than 2 feet from the access opening, an 18-inch by 18-inch minimum size opening shall be installed. A door or panel shall be permitted to close the opening. In all cases, the access opening shall be unobstructed and be of the size necessary to permit the removal and replacement of the circulation pump.

(Ord. 2013-8.2, § 35, passed 10-14-2013)

Bennet Residential Code

§ 141.36 INTERNATIONAL RESIDENTIAL CODE; SECTION R309.3; AMENDED.

Section R309.3 of the International Residential Code is amended to read as follows:

R309.3 Flood hazard areas. For buildings located in a floodplain within the village's zoning jurisdiction, the provisions of Section 152.053 of the Bennet Zoning Code shall apply. (Ord. 2013-8.2, § 36, passed 10-14-2013)

§ 141.37 INTERNATIONAL RESIDENTIAL CODE; SECTION R309.5; ADDED.

Section R309.5 is added to the International Residential Code to read as follows:

R309.5 Headroom clearance. Any portion of a garage shall have an unobstructed headroom clearance of not less than 6 feet 8 inches above the finished floor to any ceiling, beam, pipe, or similar construction except for wall-mounted shelves, storage surfaces, racks, or cabinets. (Ord. 2013-8.2, § 37, passed 10-14-2013)

§ 141.38 INTERNATIONAL RESIDENTIAL CODE; SECTION R310.1; AMENDED.

Section R310.1 of the International Residential Code is amended to read as follows:

R310.1 Emergency escape and rescue required. Every sleeping room shall have at least one operable emergency escape and rescue window or exterior door opening for emergency escape and rescue. Rooms with a storage closet greater than 18 inches in depth or direct access to a bathroom shall also comply with this requirement. Where openings are provided as a means of escape and rescue, they shall have a clear opening height not more than 44 inches above the floor. The net clear opening dimensions required by this section shall be obtained by the normal operation of the window or door opening from the inside. Escape and rescue window openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with Section R310.2.

R310.1.1 Minimum opening area. All emergency escape and rescue openings shall have a minimum net clear opening of 5.7 square feet (0.530 m²).

R310.1.2 Minimum opening height. The minimum net clear opening height shall be 24 inches (610 mm).

R310.1.3 Minimum opening width. The minimum net clear opening width shall be 20 inches (508 mm).

R310.1.4 Operational constraints. Emergency escape and rescue openings shall be operational from the inside of the room without the use of keys, tools or special knowledge.

Bennet – Structural Safety

R310.1.5 Double hung egress window. Double hung windows must meet the requirements for an egress window without removing the upper sash.
(Ord. 2013-8.2, § 38, passed 10-14-2013)

§ 141.39 INTERNATIONAL RESIDENTIAL CODE; SECTION R310.3; AMENDED.

Section R310.3 of the International Residential Code is amended to read as follows:

R310.3 Bulkhead enclosures. Bulkhead enclosures shall provide direct access only to furnace, water heater, and other mechanical, plumbing and electrical equipment.
(Ord. 2013-8.2, § 39, passed 10-14-2013)

§ 141.40 INTERNATIONAL RESIDENTIAL CODE; SECTION R311.3.2; AMENDED.

Section R311.3.2 of the International Residential Code is amended to read as follows:

R311.3.2 Floor elevations for other exterior doors. Doors other than the required egress door shall be provided with landings or floors not more than 7¾ inches below the top of the threshold.

Exceptions:

1. Where a stairway of 4 or more risers is located on the exterior side of the door, other than the required exit door, a landing is required.
 2. The height of floors at a garage utility door shall not be more than 7¾ inches lower than the top of the threshold.
- (Ord. 2013-8.2, § 40, passed 10-14-2013)

§ 141.41 INTERNATIONAL RESIDENTIAL CODE; SECTION R311.7; AMENDED.

Section R311.7 of the International Residential Code is amended to read as follows:

R311.7 Stairways.

R311.7.1 Width. Stairways shall not be less than 36 inches in clear width at all points above the permitted handrail height and below the required headroom height. Handrails shall not project more than 4.5 inches on either side of the stairway and the minimum clear width of the stairway at and below the handrail height, including treads and landings, shall not be less than 31.5 inches where a handrail is installed on one side and 27 inches where handrails are provided on both sides.

Bennet Residential Code

Exceptions:

1. The width of spiral stairways shall be in accordance with Section R311.7.9.1.
2. Private stairways for lofts or attics may be 30 inches in width provided the minimum clear width at and below the railing shall not be less than 25½ inches.
3. Stringers and other projections such as trim and similar decorative features may project into the required width 1½ inches on each side.

R311.7.2 Headroom. The minimum headroom in all parts of the stairway shall not be less than 6 feet 8 inches measured vertically from the sloped plane adjoining the tread nosing or from the floor surface of the landing or platform.

Exception: When demonstrated to the building official there are practical difficulties in achieving 6 feet 8 inches headroom in existing construction, a minimum of 6 feet 6 inches headroom may be allowed.

R311.7.3 Walkline. The walkline across winder treads shall be concentric to the curved direction of travel through the turn and located 12 inches from the side where the winders are narrower.

R311.7.4 Stair treads and risers.

R311.7.4.1 Riser height. The maximum riser height shall be 7¾ inches. The riser shall be measured vertically between leading edges of the adjacent tread. The greatest riser height within any flight of stairs shall not exceed the smallest by more than ¾ inch. The minimum riser height shall be no less than 4 inches. Open risers are permitted.

R311.7.4.2 Tread depth. The minimum tread depth shall be 10 inches unless at the discretion of the building official, it may be adjusted to accommodate existing conditions. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than ¾ inch. Winder treads shall have a minimum tread depth of 10 inches measured at a point 12 inches from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 7 inches at any point.

R311.7.4.3 Profile. The radius of curvature at the nosing shall be no greater than 9/16 inch. A nosing not less than ¾ inch but not more than 1¼ inches be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than ¾ inch between two stories, including the nosing at the level of floors and landings. Beveling of nosings shall not exceed ½ inch. Risers shall be vertical or sloped under the tread above from the underside of the nosing above at an angle not more than 30 degrees from the vertical. Open risers are permitted.

Bennet – Structural Safety

Exception: A nosing is not required where the tread depth is a minimum of 10 inches.

R311.7.4.4 Exterior wood/plastic composite stair treads. Wood/plastic composite stair treads shall comply with the provisions of Section R317.4.

R311.7.5 Landings for stairways. There shall be a floor or landing at the top and bottom of each stairway.

Exceptions:

1. A floor or landing is not required at the top of an interior flight of stairs, including stairs in an enclosed garage, provided a door does not swing over the stairs. A flight of stairs shall not have a vertical rise larger than 12 feet between floor levels or landings. The width of each landing shall not be less than the width of the stairway served. Every landing shall have a minimum dimension of 36 inches measured in the direction of travel.
2. The bottom of an exterior stair shall be supported by a concrete or stone pad that provides a minimum landing of 12 inches, the top of which is at grade level, and shall be the width of the stairs.

R311.7.6 Stairway walking surface. The walking surface of treads and landings of stairways shall be sloped no steeper than one unit vertical in 48 inches horizontal (2-percent slope).

R311.7.7 Handrails. Handrails shall be provided on at least one side of each continuous run of treads or flight with four or more risers. The handrail for circular, and winding stairs shall be located on the side where the tread is narrower.

R311.7.7.1 Height. Handrail height, measured vertically from the sloped plane adjoining the tread nosing, or finish surface of ramp slope, shall be not less than 34 inches and not more than 38 inches (965 mm).

R311.7.7.2 Continuity. Handrails for stairways shall be continuous for the full length of the flight, from a point directly above the top riser of the flight to a point directly above the lowest riser of the flight. Handrails adjacent to a wall shall have a space of not less than 1½ inch between the wall and the handrails.

Exceptions:

1. Handrails shall be permitted to be interrupted by a newel post at the turn.
2. The use of a volute, turnout, starting easing or starting newel shall be allowed over the lowest tread.

Bennet Residential Code

3. Handrails shall be permitted to be interrupted at the point where a stairway wall changes to an open guard.

R311.7.7.3 Grip-size. All required handrails shall be of one of the following types or provide equivalent graspability.

1. Type I. Handrails with a circular cross section shall have an outside diameter of at least $1\frac{1}{4}$ inches and not greater than 2 inches. If the handrail is not circular, it shall have a perimeter dimension of at least 4 inches and not greater than $6\frac{1}{4}$ inches with a maximum cross section of dimension of $2\frac{1}{4}$ inches. Edges shall have a minimum radius of 0.01 inch.

2. Type II. Handrails with a perimeter greater than $6\frac{1}{4}$ inches shall have a graspable finger recess area on both sides of the profile. The finger recess shall begin with a distance of $\frac{3}{4}$ inch measured vertically from the tallest portion of the profile and achieve a depth of at least $\frac{5}{16}$ inch within $\frac{7}{8}$ inch to a level that is not less than $1\frac{3}{4}$ inches below the tallest portion of the profile. The minimum width of the handrail above the recess shall be $1\frac{1}{4}$ inches to a maximum of $2\frac{3}{4}$ inches. Edges shall have a minimum radius of 0.01 inches.

3. Type III. Handrails for exterior stairs of an individual dwelling unit may consist of a $1\frac{1}{2}$ inch x $3\frac{1}{2}$ inch rail mounted in a horizontal position.

R311.7.8 Illumination. All stairs shall be provided with illumination in accordance with Section R303.6.

R311.7.9 Special stairways. Spiral stairways, winder stairways, circular stairways, and bulkhead enclosure stairways shall comply with all requirements of Section R311.7 except as specified below.

R311.7.9.1 Spiral stairways. Spiral stairways are permitted, provided the minimum width shall be 26 inches with each tread having a $7\frac{1}{2}$ -inch minimum tread depth at 12 inches from the narrower edge. All treads shall be identical, and the rise shall be no more than $9\frac{1}{2}$ inches. A minimum headroom of 6 feet 6 inches shall be provided.

R311.7.9.2 Circular stairways. Circular and winding stairways shall have a tread depth at a point not more than 12 inches from the side where the treads are narrower of not less than 10 inches and the minimum depth of any tread shall not be less than 7 inches. The largest tread depth shall not exceed the smallest by more than $\frac{3}{8}$ inch.

(Ord. 2013-8.2, § 41, passed 10-14-2013)

§ 141.42 INTERNATIONAL RESIDENTIAL CODE; SECTION R312; AMENDED.

Section R312 of the International Residential Code is amended to read as follows:

**SECTION R312
GUARDS**

R312.1 Guards. Porches, balconies, ramps or raised floor surfaces located more than 30 inches above the floor or grade below shall have guards not less than 36 inches in height. Open sides of stairs with a total rise of more than 30 inches above the floor or grade below shall have guards not less than 34 inches in height measured vertically from the nosing of the treads. Porches and decks which are enclosed with insect screening shall be equipped with guards where the walking surface is located more than 30 inches above the floor or grade below.

A guard is required when a sidewalk, patio, or driveway is 60 inches or less from an egress window well 30 inches in height or greater.

A guard is required when a sidewalk, patio, or driveway is 30 inches or less from a retaining wall of 30 inches in height or greater to the floor or grade below.

When retaining wall heights are between 30 inches and 60 inches to the floor or grade below, there shall be a distance ratio maintained from the sidewalk, patio, or driveway equal to or greater than the retaining wall height if no guard is to be installed.

R312.2 Guard opening limitations. Required guards on open sides of stairways, raised floor areas, balconies and porches shall have intermediate rails or ornamental closures which do not allow passage of a sphere 5 inches or more in diameter.

Exception: The triangular openings formed by the riser, tread and bottom rail of a guard at the open side of a stairway are permitted to be of such a size that a sphere 6 inches cannot pass through.
(Ord. 2013-8.2, § 42, passed 10-14-2013)

§ 141.43 INTERNATIONAL RESIDENTIAL CODE; SECTION R313; DELETED.

Section R313 of the International Residential Code (Automatic Fire Sprinkler Systems) is deleted in its entirety.
(Ord. 2013-8.2, § 43, passed 10-14-2013)

§ 141.44 INTERNATIONAL RESIDENTIAL CODE; SECTION R314.3; AMENDED.

Section R314.3 to the International Residential Code is amended to read as follows:

R314.3 Single- and multiple-station smoke alarms. Single- and multiple-station smoke alarms shall be installed in the following locations:

Bennet Residential Code

1. In each sleeping room; and
2. On each story of the dwelling, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

When more than one smoke alarm is required to be installed within an individual dwelling unit the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

All smoke alarms shall be listed and installed in accordance with the provisions of this code and the household fire warning equipment provisions of NFPA 72.
(Ord. 2013-8.2, § 44, passed 10-14-2013)

§ 141.45 INTERNATIONAL RESIDENTIAL CODE; SECTION R314.4; AMENDED.

Section R314.4 to the International Residential Code is amended to read as follows:

R314.4 Power Source. Smoke alarms shall receive their primary power from the building wiring when such wiring is served from a commercial source, and when primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection. Smoke alarms shall be interconnected.

Exceptions:

1. Smoke alarms shall be permitted to be battery operated when installed in buildings without commercial power.
 2. Interconnection and hard-wiring of smoke alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure.
- (Ord. 2013-8.2, § 45, passed 10-14-2013)

§ 141.46 INTERNATIONAL RESIDENTIAL CODE; SECTION R315; AMENDED.

Section R315 to the International Residential Code is amended to read as follows:

**SECTION R315
CARBON MONOXIDE ALARMS**

R315.1 Carbon monoxide alarms location. For new construction, additions, and interior alterations requiring a building permit that have an attached garage or fuel-fired appliances, one approved carbon monoxide alarm shall be installed on each floor and located in the immediate vicinity of the bedrooms.

R315.2 Alarm requirements. Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions. A combination smoke alarm and carbon monoxide alarm is permitted. Carbon monoxide detectors are not required to be hardwired or interconnected. (Ord. 2013-8.2, § 46, passed 10-14-2013)

§ 141.47 INTERNATIONAL RESIDENTIAL CODE; SECTION R317.1; AMENDED.

Section R317.1 of the International Residential Code is amended to read as follows:

R317.1 Location required. Protection of wood and wood based products from decay shall be provided in the following locations by the use of naturally durable wood or wood that is preservative-treated in accordance with AWPA U1 for the species, product, preservative and end use. Preservatives shall be listed in Section 4 of AWPA U1.

1. Wood joists or the bottom of a wood structural floor when closer than 18 inches (457 mm) or wood girders when closer than 12 inches to the exposed ground in crawl spaces or unexcavated area located within the periphery of the building foundation.
2. All wood framing members that rest on concrete or masonry exterior foundation walls and are less than 8 inches from the exposed ground.
3. Sills and sleepers on a concrete or masonry slab that is in direct contact with the ground unless separated from such slab by an impervious moisture barrier.
4. The ends of wood girders entering exterior masonry or concrete walls having clearances of less than ½ inch on tops, sides and ends.
5. Wood siding, sheathing and wall framing on the exterior of a building having a clearance of less than 6 inches from the ground or less than 2 inches measured vertically from concrete steps, porch slabs, patio slabs, and similar horizontal surfaces exposed to the weather.
6. Wood structural members supporting moisture-permeable floors or roofs that are exposed to the weather, such as concrete or masonry slabs, unless separated from such floors or roofs by an impervious moisture barrier.

Bennet Residential Code

7. Wood furring strips or other wood framing members attached directly to the interior of exterior masonry walls or concrete walls below grade.

8. Bottom sill plates for bearing walls cannot be imbedded in concrete.
(Ord. 2013-8.2, § 47, passed 10-14-2013)

§ 141.48 INTERNATIONAL RESIDENTIAL CODE; SECTION R317.1.2; DELETED.

Section R317.1.2 to the International Residential Code (Ground Contact) is hereby deleted.
(Ord. 2013-8.2, § 48, passed 10-14-2013)

§ 141.49 INTERNATIONAL RESIDENTIAL CODE; SECTION R317.1.4; AMENDED.

Section R317.1.4 of the International Residential Code is amended to read as follows:

R317.1.4 Wood columns. Wood columns shall be approved wood of natural decay resistance or approved pressure-preservative-treated wood. Posts, poles and columns supporting permanent structures shall bear upon a concrete footing and shall not be imbedded in the concrete or in the ground unless approved for such use.

Exceptions:

1. Columns exposed to the weather or in basements when supported by concrete piers or metal pedestals projecting 1 inch above a concrete floor or 6 inches above exposed earth and the earth is covered by an approved impervious moisture barrier.
2. Columns in enclosed crawl spaces or unexcavated areas located within the periphery of the building when supported by a concrete pier or metal pedestal at a height more than 8 inches (203mm) from exposed earth and the earth is covered by an impervious moisture barrier.

(Ord. 2013-8.2, § 49, passed 10-14-2013)

§ 141.50 INTERNATIONAL RESIDENTIAL CODE; SECTION R319; AMENDED.

Section R319 of the International Residential Code is amended to read as follows:

SECTION R319 PREMISES IDENTIFICATION

R319.1 Premises identification. Approved numbers or addresses shall be provided for all new buildings in such a position as to be plainly visible and legible from the street or road fronting

Bennet – Structural Safety

the property. Premises shall have addresses provided on buildings as specified under Chapter 6-201 of the Bennet Municipal Code.

(Ord. 2013-8.2, § 50, passed 10-14-2013)

§ 141.51 INTERNATIONAL RESIDENTIAL CODE; SECTION R320; DELETED.

Section R320 of the International Residential Code (Accessibility) is hereby deleted.
(Ord. 2013-8.2, § 51, passed 10-14-2013)

§ 141.52 INTERNATIONAL RESIDENTIAL CODE; SECTION R322; DELETED.

Section R322 to the International Residential Code (Flood-Resistant Construction) is deleted in its entirety. (Chapter 152.03 of the Bennet Zoning Code will apply.)
(Ord. 2013-8.2, § 52, passed 10-14-2013)

§ 141.53 INTERNATIONAL RESIDENTIAL CODE; TABLE R401.4.1; AMENDED.

Table R401.4.1 to the International Residential Code is amended to read as follows:

**TABLE R401.4.1
PRESUMPTIVE LOAD-BEARING VALUES OF
FOUNDATION MATERIALS^a**

CLASS OF MATERIAL	LOAD-BEARING PRESSURE (pounds per square foot)
Crystalline bedrock	12,000
Sedimentary and foliated rock	4,000
Sandy gravel and/or gravel (GW and GP)	3,000
Sand, silty sand, clayey sand, silty gravel and clayey gravel (SW, SP, SM, SC, GM and GC)	2,000
Clay, sandy clay, silty clay, clayey silt, silt and sandy silt (CL, ML, MH and CH)	2,000

For SI: 1 pound per square foot = 0.0479 kPa.

a. When soil tests are required by Section R401.4, the allowable bearing capacities of the soil shall be part of the recommendations.
(Ord. 2013-8.2, § 53, passed 10-14-2013)

Bennet Residential Code

§ 141.54 INTERNATIONAL RESIDENTIAL CODE; SECTION R403.1; AMENDED.

Section R403.1 of the International Residential Code is amended to read as follows:

R403.1 General. All exterior walls shall be supported on continuous solid or fully grouted masonry or concrete footings, wood foundations, or other approved structural systems which shall be of sufficient design to accommodate all loads according to Section R301 and to transmit the resulting loads to the soil within the limitations as determined from the character of the soil. Footings shall be supported on undisturbed natural soils or engineered fill. Slabs and monolithic slabs shall not bear on new fill unless compacted. Concrete footing shall be designed and constructed in accordance with the provisions of Section R403 or in accordance with ACI 332. (Ord. 2013-8.2, § 54, passed 10-14-2013)

§ 141.55 INTERNATIONAL RESIDENTIAL CODE; SECTION R403.1.1; AMENDED.

Section R403.1.1 of the International Residential Code is amended to read as follows:

R403.1.1 Minimum size. Minimum sizes for concrete and masonry footings shall be as set forth in Table R403.1 and Figure R403.1(1). The footing width, W, shall be based on the load-bearing value of the soil in accordance with Table R401.4.1. Spread footings shall be at least 8 inches thick. Footing projections, P, shall be at least 2 inches and shall not exceed the thickness of the footing. The size of footings supporting piers and columns shall be based on the tributary load and allowable soil pressure in accordance with Table R401.4.1. Footings for wood foundations shall be in accordance with the details set forth in Section R403.2. (Ord. 2013-8.2, § 55, passed 10-14-2013)

§ 141.56 INTERNATIONAL RESIDENTIAL CODE; TABLE R403.1; AMENDED.

Table R403.1 to the International Residential Code is added to read as follows:

TABLE R403.1
MINIMUM WIDTH OF CONCRETE OR
MASONRY FOOTINGS
(inches)^a

	LOAD-BEARING VALUE OF SOIL (psf)		
	2,000	3,000	≥4,000
Conventional light-frame construction			
1-story	12	12	12
2-story	16	12	12
3-story	17	12	12
4-inch brick veneer over light frame or 8-inch hollow concrete masonry			
1-story	12	12	12
2-story	16	12	12
3-story	24	16	12
8-inch solid or fully grouted masonry			
1-story	12	12	12
2-story	21	14	12
3-story	32	21	16

For SI: 1 inch = 25.4 mm, 1 pound per square foot = 0.0479 kPa.

- a. Where minimum footing width is 12 inches, use of a single wythe of solid or fully grouted 12-inch nominal concrete masonry units is permitted.
 (Ord. 2013-8.2, § 56, passed 10-14-2013)

§ 141.57 INTERNATIONAL RESIDENTIAL CODE; FIGURE R403.1(1); AMENDED.

Figure R403.1(1) of the International Residential Code (Minimum Footing Reinforcement) is amended as shown on said figure at the end of this Chapter.
 (Ord. 2013-8.2, § 57, passed 10-14-2013)

§ 141.58 INTERNATIONAL RESIDENTIAL CODE; SECTION R403.1.3.2; AMENDED.

Section R403.1.3.2 of the International Residential Code is amended to read as follows:

R403.1.3.2 Slabs-on-ground with turned-down footings. Slabs-on-ground with turned-down footings shall have the minimum of one No. 4 bar at the top and the bottom of the footing.
 (Ord. 2013-8.2, § 58, passed 10-14-2013)

Bennet Residential Code

§ 141.59 INTERNATIONAL RESIDENTIAL CODE; SECTION R403.1.4.1; AMENDED.

Section R403.1.4.1 to the International Residential Code is amended to read as follows:

R403.1.4.1 Frost protection. Foundation walls, piers and other permanent supports of buildings and structures shall extended below the frost line specified in Table R301.2.(1).

Exceptions:

1. Protection of freestanding accessory structures with an area of 400 square feet or less, of light-framed construction, with an eave height of 10 feet or less shall not be required.
 2. Protection of freestanding accessory structures with an area of 500 square feet or less, of light-framed construction, with an eave height of 10 feet or less shall be allowed to be a monolithic slab as shown in Figure R403.3(1).
 3. Decks less than 400 square feet not supported by a dwelling need not be provided with footings that extend below the frost line.
- (Ord. 2013-8.2, § 59, passed 10-14-2013)

§ 141.60 INTERNATIONAL RESIDENTIAL CODE; SECTION R403.1.6; AMENDED.

Section R403.1.6 to the International Residential Code is amended to read as follows:

R403.1.6 Foundation anchorage. When braced wall panels are supported directly on continuous foundations, the wall wood sill plate or cold-formed steel bottom track shall be anchored to the foundation in accordance with this section.

The wood sole plate at exterior walls on monolithic slabs and wood sill plate shall be anchored to the foundation with anchor bolts spaced a maximum of 6 feet on center. There shall be a minimum of two bolts per plate section with one bolt located not more than 12 inches or less than seven bolt diameters from each end of the plate section. In Seismic Design Categories D₀, D₁ and D₂, anchor bolts shall be spaced at 6 feet on center and located within 12 inches of the ends of each plate section at interior braced wall lines when required by Section R602.10.9 to be supported on a continuous foundation. Bolts shall be at least ½ inch in diameter and shall extend a minimum of 7 inches into masonry or concrete. Interior bearing wall sole plates on monolithic slab foundation shall be positively anchored with approved fasteners. A nut and washer shall be tightened on each bolt of the plate. Sills and sole plates shall be protected against decay and termites where required by Section R318. Cold-formed steel framing systems shall be fastened to the wood sill plates or anchored directly to the foundation as required in Section R505.3.1.

Exceptions:

1. Foundation anchorage, spaced as required to provide equivalent anchorage to ½-inch-diameter anchor bolts. “Y” foundation anchor straps are not equivalent.

Bennet – Structural Safety

2. Walls 24 inches total length or shorter connecting offset braced wall panels shall be anchored to the foundation with a minimum of one anchor bolt located in the center third of the plate section and shall be attached to adjacent braced wall panels per Figure R602.12.5 at corners.
3. Walls 12 inches total length or shorter connecting offset braced wall panels shall be permitted to be connected to the foundation without anchor bolts.
(Ord. 2013-8.2, § 60, passed 10-14-2013)

§ 141.61 INTERNATIONAL RESIDENTIAL CODE; SECTION R403.3; DELETED.

Section R403.3 of the International Residential Code (Frost Protected Shallow Foundations) is deleted in its entirety.
(Ord. 2013-8.2, § 61, passed 10-14-2013)

§ 141.62 INTERNATIONAL RESIDENTIAL CODE; SECTION R403.4; AMENDED.

Section R403.4 of the International Residential Code is amended to read as follows:

R403.4 Footings for precast concrete foundations. Footings for precast concrete foundations shall be as described in Table R403.1.
(Ord. 2013-8.2, § 62, passed 10-14-2013)

§ 141.63 INTERNATIONAL RESIDENTIAL CODE; SECTION R403.4.1; DELETED.

Section R403.4.1 of the International Residential Code (Crushed Stone Footings) is hereby deleted.
(Ord. 2013-8.2, § 63, passed 10-14-2013)

§ 141.64 INTERNATIONAL RESIDENTIAL CODE; TABLE R403.4; DELETED.

Table R403.4 of the International Residential Code (Minimum Depth of Crushed Stone Footings) is hereby deleted.
(Ord. 2013-8.2, § 64, passed 10-14-2013)

§ 141.65 INTERNATIONAL RESIDENTIAL CODE; TABLE R404.1.1(1); DELETED.

Table R404.1.1(1) of the International Residential Code (Plain Masonry Foundation Walls) is hereby deleted.
(Ord. 2013-8.2, § 65, passed 10-14-2013)

Bennet Residential Code

§ 141.66 INTERNATIONAL RESIDENTIAL CODE; FIGURE R404.1.1(3); ADDED.

Figure R404.1.1(3) (Permanent Masonry Foundation Basement Wall Section) is added to the International Residential Code as shown on said Figure at the end of this Chapter.
(Ord. 2013-8.2, § 66, passed 10-14-2013)

§ 141.67 INTERNATIONAL RESIDENTIAL CODE; TABLE R404.1.2(1); DELETED.

Table R404.1.2(1) of the International Residential Code (Minimum Horizontal Reinforcement for Concrete Basement Walls) is hereby deleted.
(Ord. 2013-8.2, § 67, passed 10-14-2013)

§ 141.68 INTERNATIONAL RESIDENTIAL CODE; TABLE R404.1.2(2); DELETED.

Table R404.1.2(2) of the International Residential Code (Minimum Vertical Reinforcement for 6-inch Nominal Flat Concrete Basement Walls) is hereby deleted.
(Ord. 2013-8.2, § 68, passed 10-14-2013)

§ 141.69 INTERNATIONAL RESIDENTIAL CODE; TABLE R404.1.2(3); DELETED.

Table R404.1.2(3) of the International Residential Code (Minimum Vertical Reinforcement for 8-inch Nominal Flat Concrete Basement Walls) is hereby deleted.
(Ord. 2013-8.2, § 69, passed 10-14-2013)

§ 141.70 INTERNATIONAL RESIDENTIAL CODE; TABLE R404.1.2(4); DELETED.

Table R404.1.2(4) of the International Residential Code (Minimum Vertical Reinforcement for 10-inch Nominal Flat Concrete Basement Walls) is hereby deleted.
(Ord. 2013-8.2, § 70, passed 10-14-2013)

§ 141.71 INTERNATIONAL RESIDENTIAL CODE; TABLE R404.1.2(8); DELETED.

Table R404.1.2(8) of the International Residential Code (Minimum Vertical Reinforcement for 6-, 8-, 10-inch and 12-inch Nominal Flat Basement Walls) is hereby deleted.
(Ord. 2013-8.2, § 71, passed 10-14-2013)

§ 141.72 INTERNATIONAL RESIDENTIAL CODE; TABLE R404.1.2(9); DELETED.

Table R404.1.2(9) of the International Residential Code (Minimum Spacing for Alternate Bar Size and/or Alternate Grade of Steel) is hereby deleted.
(Ord. 2013-8.2, § 72, passed 10-14-2013)

§ 141.73 INTERNATIONAL RESIDENTIAL CODE; SECTION R404.1.2.2; AMENDED.

Section R404.1.2.2 of the International Residential Code is amended to read as follows:

R404.1.2.2 Reinforcement for foundation walls. Concrete foundation walls shall be laterally supported at the top and bottom and vertical reinforcement shall be provided in accordance with Figures R404.1.2.2(1) through R404.1.2.2(9).
(Ord. 2013-8.2, § 73, passed 10-14-2013)

§ 141.74 INTERNATIONAL RESIDENTIAL CODE; FIGURES R404.1.2.2(1) THROUGH R404.1.2.2(9) AND FIGURE R404.1.2.2.1; ADDED.

Figures R404.1.2.2(1) through R404.1.2.2(9) (Reinforcement for Foundation Walls) and Figure R404.1.2.2.1 (Deadman/4 Foot Concrete Wall) are added to the International Residential Code as shown on such Figures at the end of this Chapter.
(Ord. 2013-8.2, § 74, passed 10-14-2013)

§ 141.75 INTERNATIONAL RESIDENTIAL CODE; SECTION R404.1.5.2; AMENDED.

Section R404.1.5.2 of the International Residential Code is amended to read as follows:

R404.1.5.2 Concrete wall thickness. The thickness of concrete foundation walls shall be equal to or greater than the thickness of the wall in the *story* above. Concrete foundation walls with corbels, brackets or other projections built into the wall for support of masonry veneer or other purposes are not within the scope of the tables in this section.

Where a concrete foundation wall is reduced in thickness to provide a 4-inch shelf for the support of masonry veneer or a bearing ledge for joists, the reduced thickness of the wall shall not be less than 6 inches. Vertical reinforcement shall be based on the thickness of the thinner portion of the wall.

Exception: Where the height of the reduced thickness portion measured to the underside of the floor assembly or sill plate above is less than or equal to 24 inches and the reduction in thickness does not exceed 4 inches, the vertical reinforcement is permitted to be based on the thicker portion of the wall.
(Ord. 2013-8.2, § 75, passed 10-14-2013)

Bennet Residential Code

§ 141.76 INTERNATIONAL RESIDENTIAL CODE; FIGURE R404.1.5.2; ADDED.

Figure R404.1.5.2 (Garage Stub Wall Foundation Detail) is added to the International Residential Code as shown on such Figure at the end of this Chapter.
(Ord. 2013-8.2, § 76, passed 10-14-2013)

§ 141.77 INTERNATIONAL RESIDENTIAL CODE; SECTION R408.7; DELETED.

Section R408.7 of the International Residential Code (Flood Resistance) is hereby deleted.
(Ord. 2013-8.2, § 77, passed 10-14-2013)

§ 141.78 INTERNATIONAL RESIDENTIAL CODE; SECTION R502.2.2.3; AMENDED.

Section R502.2.2.3 of the International Residential Code is amended to read as follows:

R502.2.2.3 Deck lateral load connection. The lateral load connection required by Section R502.2.2 shall be permitted to be in accordance with Figure R502.2.2.3. Hold-down tension devices shall be installed in not less than two locations per deck, and each device shall have an allowable stress design capacity of not less than 1,500 pounds.

Exception: Hold-down tension devices shall not be required when a 2 x 4 diagonal brace is installed on the underside of the floor joist, tying all joists together, including the ledger.
(Ord. 2013-8.2, § 78, passed 10-14-2013)

§ 141.79 INTERNATIONAL RESIDENTIAL CODE; SECTION R502.3; AMENDED.

Section R502.3 of the International Residential Code is amended to read as follows:

R502.3 Allowable joist spans. Spans for floor joists shall be in accordance with Table R502.3.1(2). For other grades and species and for other loading conditions, refer to the AF&PA Span Tables for Joists and Rafters.
(Ord. 2013-8.2, § 79, passed 10-14-2013)

§ 141.80 INTERNATIONAL RESIDENTIAL CODE; SECTIONS R502.3.1, R502.3.2, R502.3.3, TABLE R502.3.1(1), TABLE R502.3.3(1) AND TABLE 502.3.3(2); DELETED.

Sections R502.3.1, R502.3.2, and R502.3.3, and Tables R502.3.1(1), R502.3.3.(1) and R502.3.3(2) of the International Residential Code are hereby deleted.
(Ord. 2013-8.2, § 80, passed 10-14-2013)

§ 141.81 INTERNATIONAL RESIDENTIAL CODE; SECTION R502.7; AMENDED.

Section R502.7 of the International Residential Code is amended to read as follows:

R502.7 Lateral restraint at supports. Joists shall be supported laterally at the ends by full-depth solid blocking not less than 2 inches nominal in thickness; or by attachment to a header, band, or rim joist, or to an adjoining stud, or the floor sheathing and interior bearing partitions; or shall be otherwise provided with lateral support to prevent rotation.

Exception: Trusses, structural composite lumber, structural glued-laminated members and I-joists shall be supported laterally as required by the manufacturer's recommendations.

R502.7.1 Bridging. Joists exceeding a nominal 2 by 8 inches shall be supported laterally by solid blocking, diagonal bridging (wood or metal), or a continuous 1-inch-by-3-inch strip nailed across the bottom of the joists perpendicular to joists at intervals not to exceed 8 feet. Dimensional lumber shall be supported laterally by solid blocking, diagonal bridging (wood or metal), or a continuous 1-inch-by-3-inch strip nailed across the bottom of joists perpendicular to joists at intervals not exceeding 8 feet.

Exception: Trusses, structural composite lumber, structural glued-laminated members and I-joists shall be supported laterally as required by the manufacturer's recommendations.
(Ord. 2013-8.2, § 81, passed 10-14-2013)

§ 141.82 INTERNATIONAL RESIDENTIAL CODE; SECTION R502.10; AMENDED.

Section R502.10 of the International Residential Code is amended to read as follows:

R502.10 Framing of openings. Openings in floor framing shall be framed with a header and trimmer joists. When the header joist span does not exceed 4 feet, the header joist may be a single member the same size as the floor joist. Single trimmer joists may be used to carry a single header joist that is located within 3 feet of the trimmer joist bearing. When the header joist span exceeds 4 feet, the trimmer joists and the header joist shall be doubled and of sufficient cross section to support the floor joists framing into the header. Approved hangers shall be used for the header joist to trimmer joist connection. Tail joists over 12 feet long shall be supported at the header by framing anchors or on ledger strips not less than 2 inches by 2 inches.
(Ord. 2013-8.2, § 82, passed 10-14-2013)

§ 141.83 INTERNATIONAL RESIDENTIAL CODE; SECTION R601.3; AMENDED.

Section R601.3 of the International Residential Code is amended to read as follows:

Bennet Residential Code

R601.3 Vapor retarders. Class I or II vapor retarders are not permitted on the interior side of framed walls.
(Ord. 2013-8.2, § 83, passed 10-14-2013)

§ 141.84 INTERNATIONAL RESIDENTIAL CODE; FIGURE R602.10.3.5; ADDED.

Figure R602.10.3.5 (Alternate Braced Wall Panel at Garage Door Openings) is added to the International Residential Code as shown on such Figure at the end of this Chapter.
(Ord. 2013-8.2, § 84, passed 10-14-2013)

§ 141.85 INTERNATIONAL RESIDENTIAL CODE; FIGURE R602.10.4; ADDED.

Figure R602.10.4 (Braced Walls Used During Continuous OSB Sheathing) is added to the International Residential Code as shown on such Figure at the end of this Chapter.
(Ord. 2013-8.2, § 85, passed 10-14-2013)

§ 141.86 INTERNATIONAL RESIDENTIAL CODE; SECTION R703.1; AMENDED.

Section R703.1 of the International Residential Code is amended to read as follows:

R703.1 Exterior Coverings; General. To promote building durability, exterior walls shall provide the building with a weather-resistant exterior wall envelope. The exterior wall envelope shall include flashing as described in Section R703.8. The envelope shall provide proper integration of flashings with the WRB and the exterior veneer. These components, in conjunction, shall provide a means of draining water that enters the assembly to the exterior.

Exterior walls shall provide the building with a weather-resistant exterior wall envelope. The exterior wall envelope shall include flashing as described in Section R703.8. The exterior wall envelope shall be designed and constructed in such a manner as to prevent the accumulation of water within the wall assembly by providing a water-resistive barrier behind the exterior veneer as required by Section R703.2.

Any deteriorated or rotting veneer shall be removed prior to installing new veneer. An approved weather barrier shall be installed prior to overlaying with a new veneer product.
(Ord. 2013-8.2, § 86, passed 10-14-2013)

§ 141.87 INTERNATIONAL RESIDENTIAL CODE; TABLE R703.7.3.1; DELETED.

Table R703.7.3.1 of the International Residential Code (Allowable Spans for Lintels Supporting Masonry Veneer) is hereby deleted.
(Ord. 2013-8.2, § 87, passed 10-14-2013)

§ 141.88 INTERNATIONAL RESIDENTIAL CODE; SECTION R703.7.3; DELETED.

Section R703.7.3 of the International Residential Code (Lintels) is hereby deleted.
(Ord. 2013-8.2, § 88, passed 10-14-2013)

§ 141.89 INTERNATIONAL RESIDENTIAL CODE; SECTION R703.7.4; AMENDED.

Section R703.7.4 of the International Residential Code is amended to read as follows:

R703.7.4 Anchorage. Anchors, supports and ties shall be noncombustible and corrosion resistant. When the terms “corrosion resistant” or “noncorrosive” are used in this section, they shall mean having a corrosion resistance equal to or greater than a hot-dipped galvanized coating of 1.5 ounces of zinc per square foot (458 g/m²) of surface area. When an element is required to be corrosion resistant or noncorrosive, all of its parts, such as screws, nails, wire, dowels, bolts, nuts, washers, shims, anchors, ties and attachments, shall be corrosion resistant.
(Ord. 2013-8.2, § 89, passed 10-14-2013)

§ 141.90 INTERNATIONAL RESIDENTIAL CODE; SECTION R703.7.4.2; DELETED.

Section R703.7.4.2 of the International Residential Code (Air Space) is hereby deleted.
(Ord. 2013-8.2, § 90, passed 10-14-2013)

§ 141.91 INTERNATIONAL RESIDENTIAL CODE; FIGURE R703.7; DELETED.

Figure R703.7 of the International Residential Code (Masonry Veneer Wall Details) is hereby deleted.
(Ord. 2013-8.2, § 91, passed 10-14-2013)

§ 141.92 INTERNATIONAL RESIDENTIAL CODE; SECTION R703.7.5; AMENDED.

Section R703.7.5 of the International Residential Code is amended to read as follows:

R703.7.5 Flashing. Flashing shall be located beneath the first course of masonry above finished ground level above the foundation wall or slab and at other points of support, including structural floors, shelf angles and lintels when masonry veneers are designed in accordance with Section R703.7. See Section R703.8 for additional requirements.

Exception: The requirements of R703.7.5 may be deleted if a poured concrete foundation is used with a minimum 8-inch brickledge drop and all exterior window and door openings are caulked with sealant.

(Ord. 2013-8.2, § 92, passed 10-14-2013)

Bennet Residential Code

§ 141.93 INTERNATIONAL RESIDENTIAL CODE; SECTION R703.7.6; AMENDED.

Section R703.7.6 of the International Residential Code is amended to read as follows:

R703.7.6 Weepholes. Weepholes shall be provided in the outside wythe of masonry walls at a maximum spacing of 33 inches on center. Weepholes shall not be less than $\frac{3}{16}$ inch in diameter. Weepholes shall be located immediately above the flashing.

Exception: The requirements of R703.7.6 may be deleted if a poured concrete foundation is used with a minimum 8-inch brickledge drop and all exterior window and door openings are flashed per 703.8 amended.

(Ord. 2013-8.2, § 93, passed 10-14-2013)

§ 141.94 INTERNATIONAL RESIDENTIAL CODE; SECTION R703.8; AMENDED.

Section R703.8 of the International Residential Code is amended to read as follows:

R703.8 Flashing. Approved corrosion-resistive flashing shall be provided in the exterior wall envelope in such a manner as to prevent entry of water into the wall cavity or penetration of water to the building structural framing components. The flashing shall extend to the surface of the exterior wall finish and shall be installed to prevent water from reentering the exterior wall envelope. Approved corrosion-resistant flashings shall be installed at all of the following locations:

1. At top of all exterior window and door openings in such a manner as to be leakproof.
2. At the intersection of chimneys or other masonry construction with frame or stucco walls, with projecting lips on both sides under stucco copings.
3. Under and at the ends of masonry, copings and sills.
4. Continuously above all projecting wood or composite trim.
5. Where exterior porches, decks or stairs attach to a wall or floor assembly of wood-frame construction.
6. At wall and roof intersections.
7. At built-in gutters.

Exceptions:

1. The requirements of subparagraph 3 above may be deleted if a poured concrete foundation is used with a minimum 8-inch brickledge drop.

Bennet – Structural Safety

2. The requirements of subparagraph 3 above may be deleted where soffits serve as protection for the upper course of brick veneer.
(Ord. 2013-8.2, § 94, passed 10-14-2013)

§ 141.95 INTERNATIONAL RESIDENTIAL CODE; SECTION R703.9.2.1; AMENDED.

Section R703.9.2.1 of the International Residential Code is amended to read as follows:

R703.9.2.1 Water-resistive barrier. The water-resistive barrier shall comply with Section R703.2 or ASTM E 2570. No. 15 asphalt shall not be permitted as a water-resistive barrier.
(Ord. 2013-8.2, § 95, passed 10-14-2013)

§ 141.96 INTERNATIONAL RESIDENTIAL CODE; SECTION R703.9.2.2; AMENDED.

Section R703.9.2.2 of the International Residential Code is amended to read as follows:

R703.9.2.2 Installation: The water-resistive barrier shall be applied between the drainage system and the wall sheathing as per R703.6.3.
(Ord. 2013-8.2, § 96, passed 10-14-2013)

§ 141.97 INTERNATIONAL RESIDENTIAL CODE; SECTION R703.12.1; ADDED.

Section R703.12.1 is added to the International Residential Code to read as follows:

R703.12.1 Water-resistive barrier. A water-resistive vapor-permeable barrier complying with ASTM E2556 for Type II water-resistive barrier shall be installed as required in Section R703.2 with an approved rain screen (drainage system) that has either a minimum depth of 1/8 inch or has an average minimum drainage efficiency of 90 percent when tested in accordance with ASTM E 2273. The WRB shall be installed between the rain screen and the wall sheathing. Flashing shall be installed in accordance with Section R703.8. No. 15 asphalt shall not be permitted as a water-resistant barrier.
(Ord. 2013-8.2, § 97, passed 10-14-2013)

§ 141.98 INTERNATIONAL RESIDENTIAL CODE; SECTION R802.3; AMENDED.

Section R802.3 of the International Residential Code is amended to read as follows:

R802.3 Framing details. Rafters shall be framed to ridge board or to each other with a gusset plate as a tie. Ridge board shall be at least 1-inch nominal thickness and not less in depth than the cut end of the rafter. At all valleys and hips there shall be a valley or hip rafter not less than 2-inch nominal thickness and not less in depth than the cut end of the rafter. Hip and valley rafters

Bennet Residential Code

shall be supported at the ridge by a brace to a bearing partition or be designed to carry and distribute the specific load at that point. Where the roof pitch is less than three units vertical in 12 units horizontal (25-percent slope), structural members that support rafters and ceiling joists, such as ridge beams, hips and valleys, shall be designed as beams.

A roof that is over framed on a lower roof shall bear on a ledger board. The ledger board shall be a minimum of 2 x 6 inches and shall be located on the inside of the heel cut. On existing roofs the roof covering shall be removed to allow the ledger board to bear on the roof sheathing and rafters. The framed roof shall comply with R802.11.
(Ord. 2013-8.2, § 98, passed 10-14-2013)

§ 141.99 INTERNATIONAL RESIDENTIAL CODE; SECTION R905.2.7.1; AMENDED.

Section R905.2.7.1 of the International Residential Code is amended to read as follows:

R905.2.7.1 Ice barrier; conditioned floor area. In areas where there has been a history of ice forming along the eaves causing a backup of water as designated in Table R301.2(1), an ice barrier that consists of a least two layers of underlayment cemented together or of a self-adhering polymer modified bitumen sheet or other method approved by the building official, shall be used in lieu of normal underlayment and extend from the lowest edges of all roof surfaces to at least 36 inches.

Exceptions:

1. The ice barrier may be omitted when a raised heel truss or other framing method provides space for a minimum of R-38 attic insulation along the exterior wall.
2. The ice barrier may be omitted for attached garages and detached accessory structures that contain no conditioned floor area.

(Ord. 2013-8.2, § 99, passed 10-14-2013)

§ 141.100 INTERNATIONAL RESIDENTIAL CODE; SECTION R907.3; AMENDED.

Section R907.3 of the International Residential Code is amended to read as follows:

R907.3 Recovering versus replacement. New roof coverings shall not be installed without first removing existing roof coverings where any of the following conditions occur:

1. Where the existing roof or roof covering is water-soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing.
2. Where the existing roof covering is wood shake, slate, clay, cement or asbestos-cement tile.

Bennet – Structural Safety

3. Where the existing roof has two or more applications of any type of roof covering.

Exception: The application of new protective coating over existing spray polyurethane foam roofing systems shall be permitted without tear-off of existing roof covering.
(Ord. 2013-8.2, § 100, passed 10-14-2013)

§ 141.101 INTERNATIONAL RESIDENTIAL CODE; SECTION R1003.11; DELETED.

Section R1003.11 of the International Residential Code (Masonry Chimneys; Flue Lining (Material)) is hereby deleted.
(Ord. 2013-8.2, § 101, passed 10-14-2013)

§ 141.102 INTERNATIONAL RESIDENTIAL CODE; SECTION R1003.11.2; DELETED.

Section R1003.11.2 of the International Residential Code (Flue Linings for Specific Appliances) is hereby deleted.
(Ord. 2013-8.2, § 102, passed 10-14-2013)

§ 141.103 INTERNATIONAL RESIDENTIAL CODE; SECTION R1003.11.3; DELETED.

Section R1003.11.3 of the International Residential Code (Gas Appliances) is hereby deleted.
(Ord. 2013-8.2, § 103, passed 10-14-2013)

§ 141.104 INTERNATIONAL RESIDENTIAL CODE; SECTION R1003.11.4; AMENDED.

Section R1003.11.4 of the International Residential Code is amended to read as follows:

R1003.11.4 Pellet fuel-burning appliances. Flue lining and vent systems for use in masonry chimneys with pellet fuel-burning appliances shall be limited to the following:

1. Flue lining systems complying with Section R1003.11.1.
2. Pellet vents listed for installation within masonry chimneys. (See Section R1003.11.6 for marking.)
(Ord. 2013-8.2, § 104, passed 10-14-2013)

§ 141.105 INTERNATIONAL RESIDENTIAL CODE; SECTION R1003.11.5; DELETED.

Section R1003.11.5 of the International Residential Code (Oil-Fired Appliances) is hereby deleted.
(Ord. 2013-8.2, § 105, passed 10-14-2013)

Bennet Residential Code

§ 141.106 INTERNATIONAL RESIDENTIAL CODE; SECTION R1003.14; DELETED.

Section R1003.14 of the International Residential Code (Flue Area (Appliance)) is hereby deleted.

(Ord. 2013-8.2, § 106, passed 10-14-2013)

§ 141.107 INTERNATIONAL RESIDENTIAL CODE; SECTION R1004.4; DELETED.

Section R1004.4 of the International Residential Code (Unvented Gas Log Heaters) is hereby deleted.

(Ord. 2013-8.2, § 107, passed 10-14-2013)

§ 141.108 INTERNATIONAL RESIDENTIAL CODE; CHAPTER 11; DELETED.

Chapter 11 of the International Residential Code (Energy Efficiency) is hereby deleted in its entirety.

(Ord. 2013-8.2, § 108, passed 10-14-2013)

§ 141.109 INTERNATIONAL RESIDENTIAL CODE; CHAPTERS 19 THROUGH 22, AND 24 THROUGH 42; DELETED.

Chapters 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 42 of the International Residential Code are hereby deleted in their entirety.

(Ord. 2013-8.2, § 109, passed 10-14-2013)

FIGURE R302.2. (1)

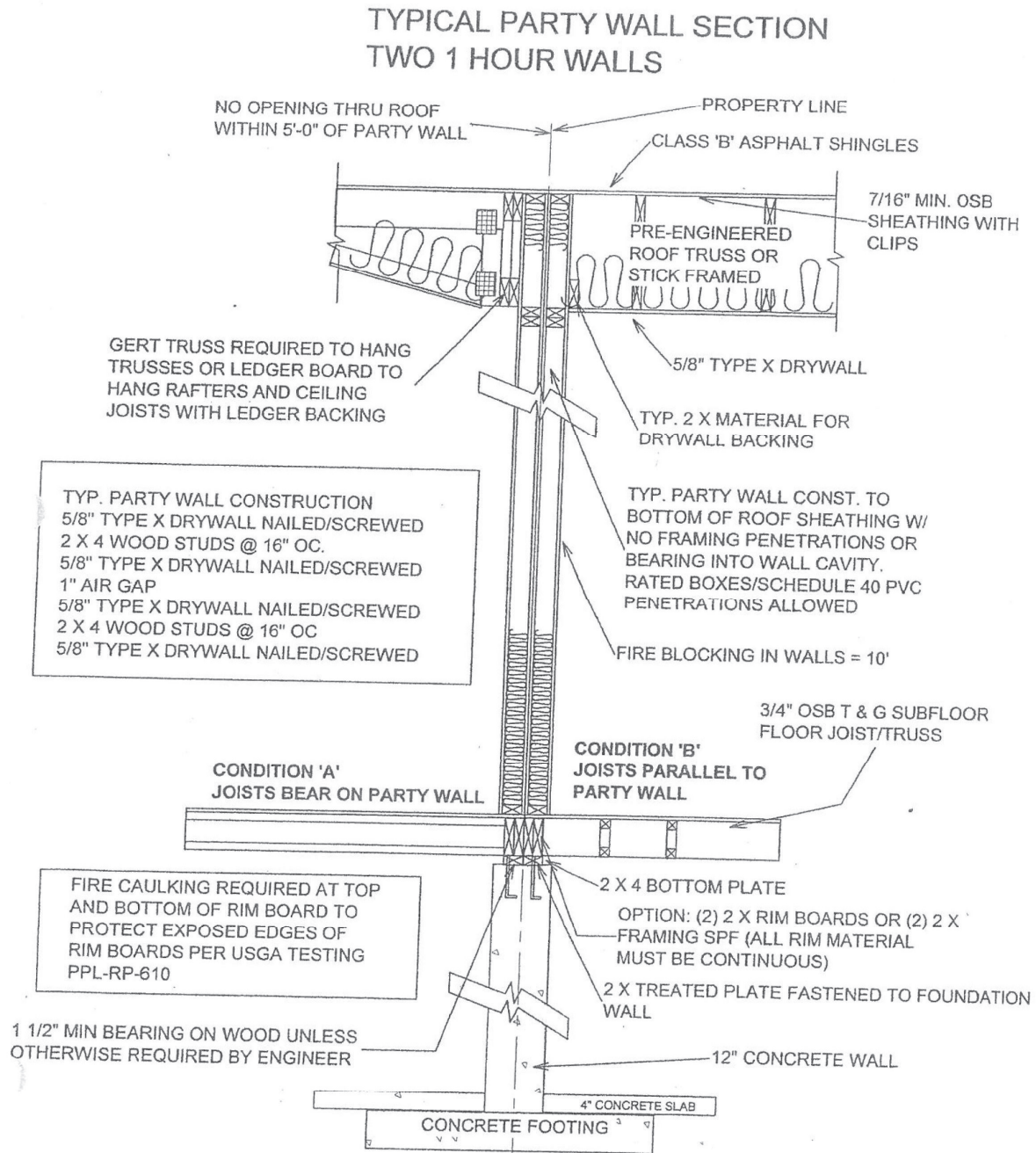


FIGURE R302.2 (2)

TYPICAL PARTY WALL SECTION 2 HOUR NON BEARING WALL WITH PARALLEL BEARING WALLS

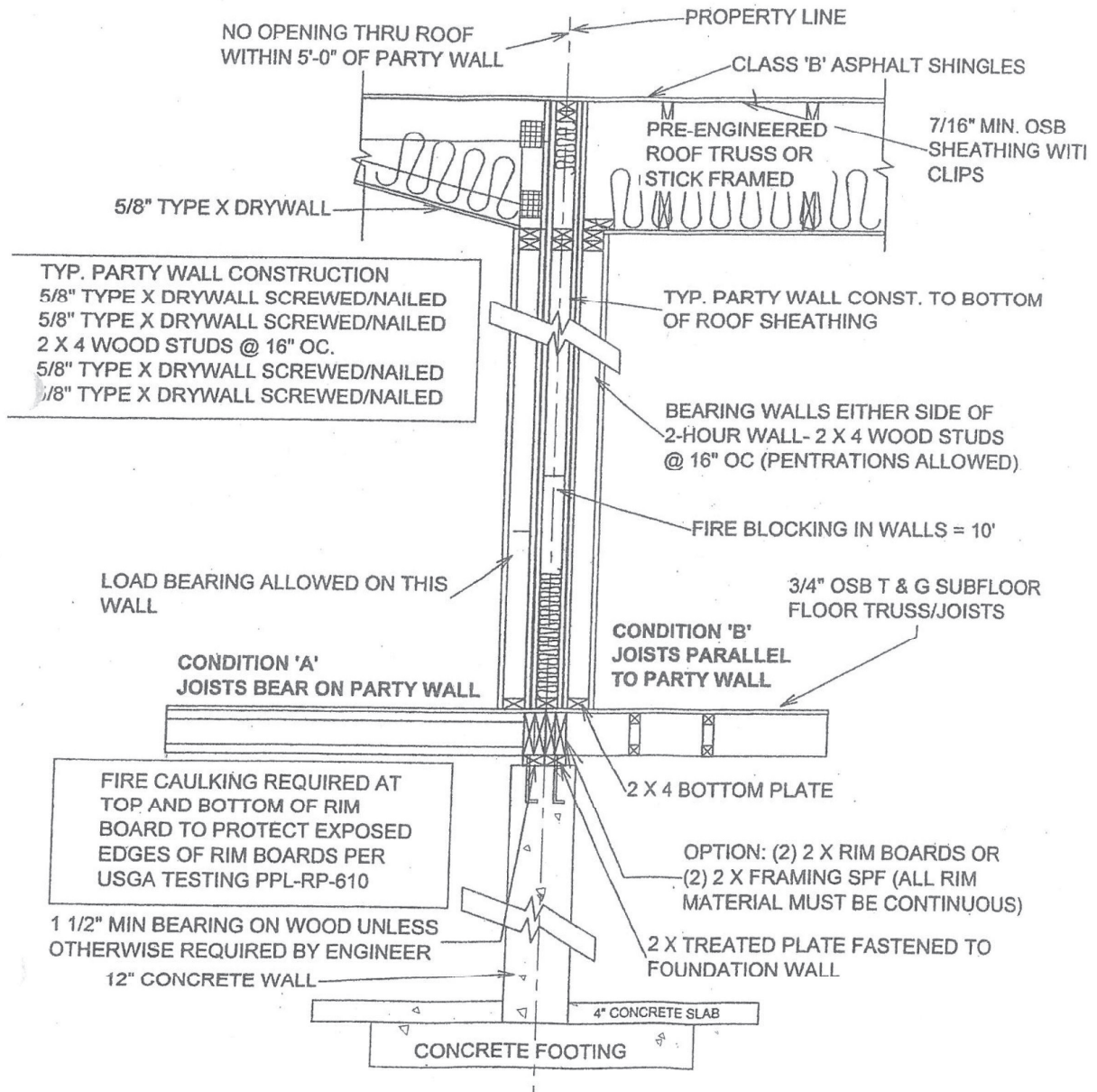
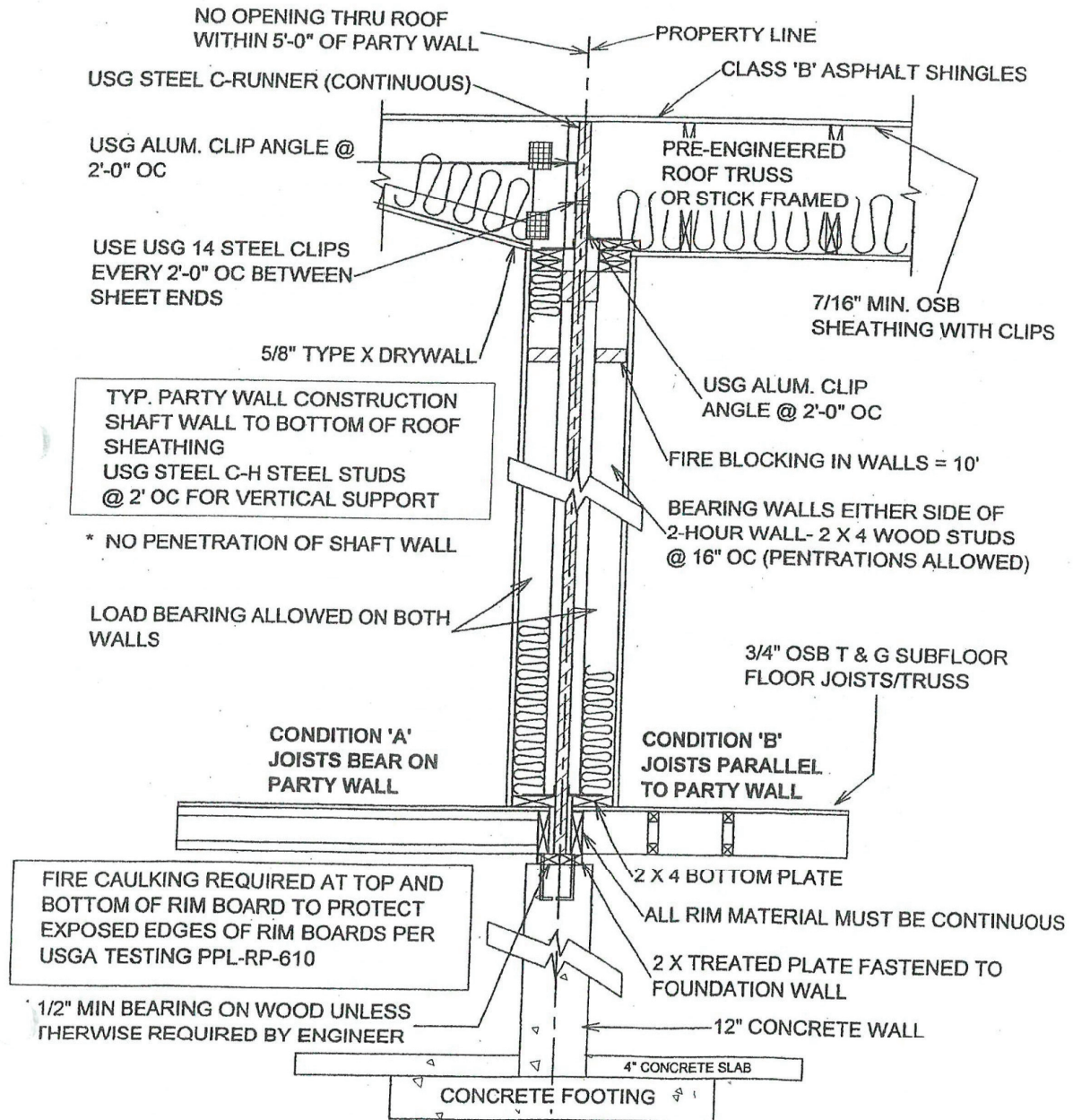


FIGURE R302.2. (1)

FIGURE R302.2 (3)

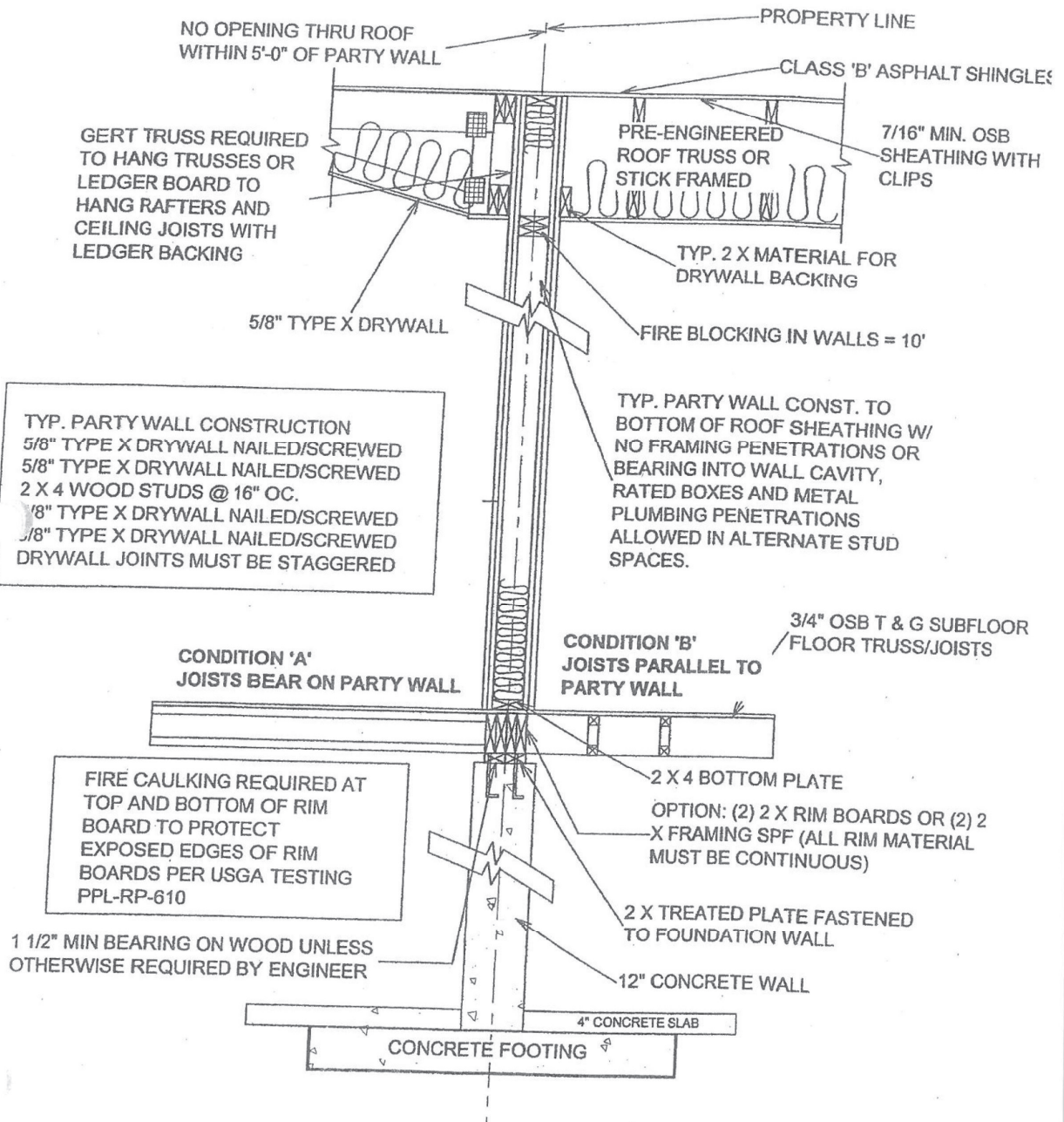
TYPICAL PARTY WALL SECTION ONE 2 HOUR SHAFT WALL



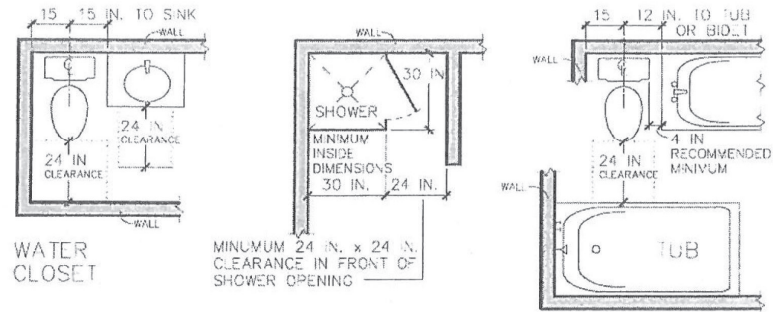
Bennet Residential Code

FIGURE R302.2 (4)

TYPICAL PARTY WALL SECTION SINGLE 2 HOUR WALL



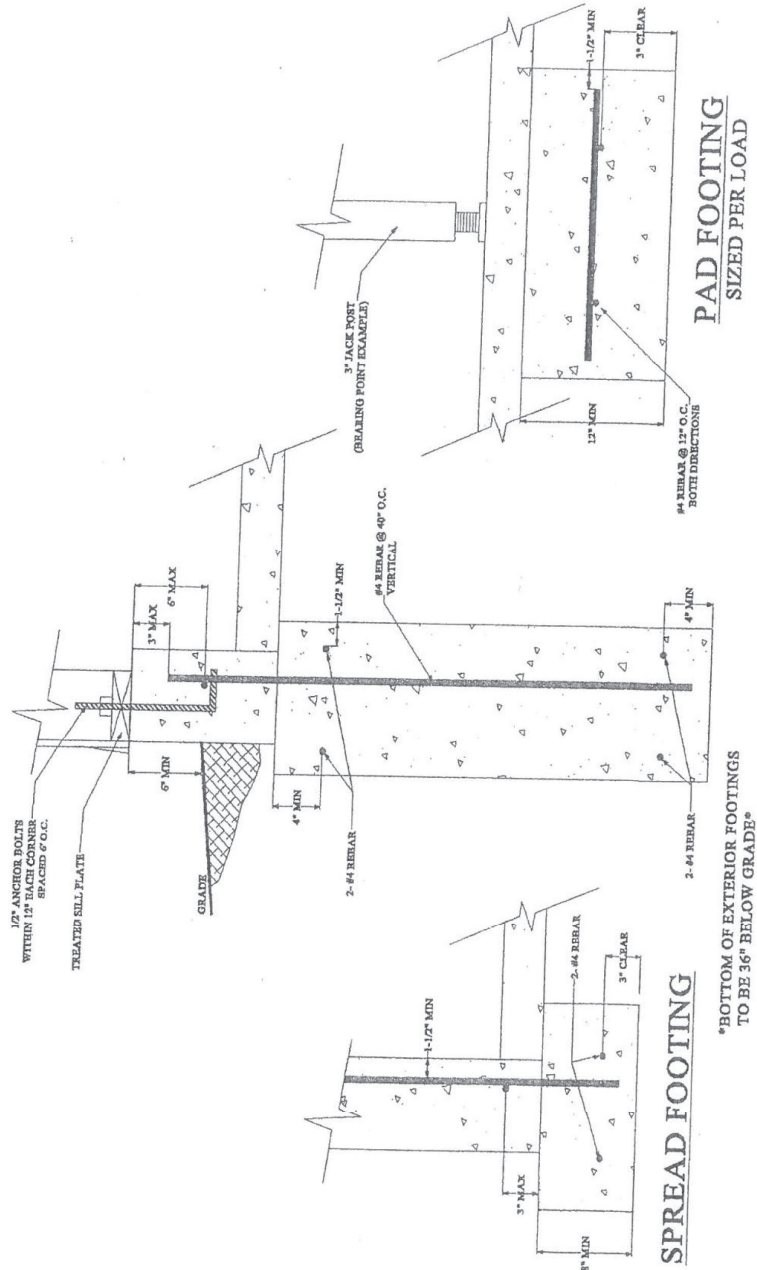
**FIGURE R307.1
MINIMUM FIXTURE CLEARANCES**



**FIGURE R307.1
MINIMUM FIXTURE CLEARANCES**
APPROXIMATE SCALE: 1/4" = 1'-0"

THERE SHALL BE A
MINIMUM CLEAR FLOOR
SPACE OF 24 x 24 INCHES
FOR ENTERING OR EXITING
OF THE TUB
5 FEB 2011

***FIGURE 403.1(1)**
MINIMUM FOOTING REINFORCEMENT



STEEL REINFORCEMENT MUST BE IN PLACE BEFORE POURING CONCRETE

***FIGURE R403.1(1)**
MONOLITHIC SLAB

- *SINGLE STORY ONLY
- *500 SQ. FT. MAX
- *20' MIN. DIMENSION
- *1- ROW BLOCK MAX
- *12" MAX FILL

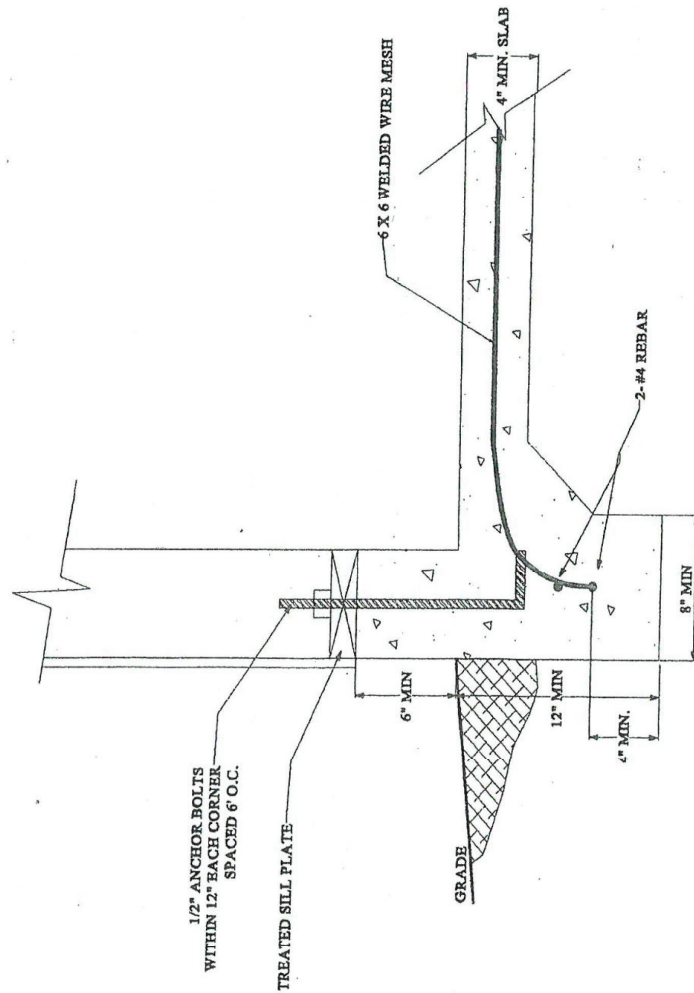


FIGURE R404.1.1 (3)

PERMANENT MASONRY FOUNDATION
BASEMENT WALL SECTION

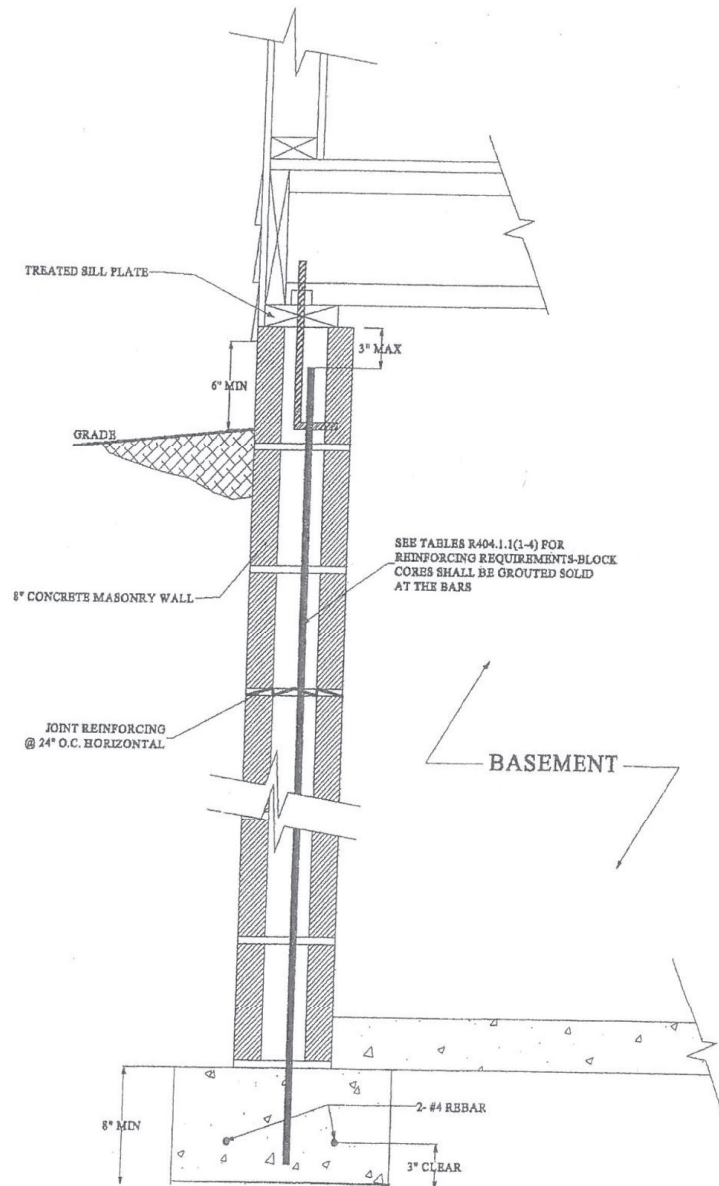
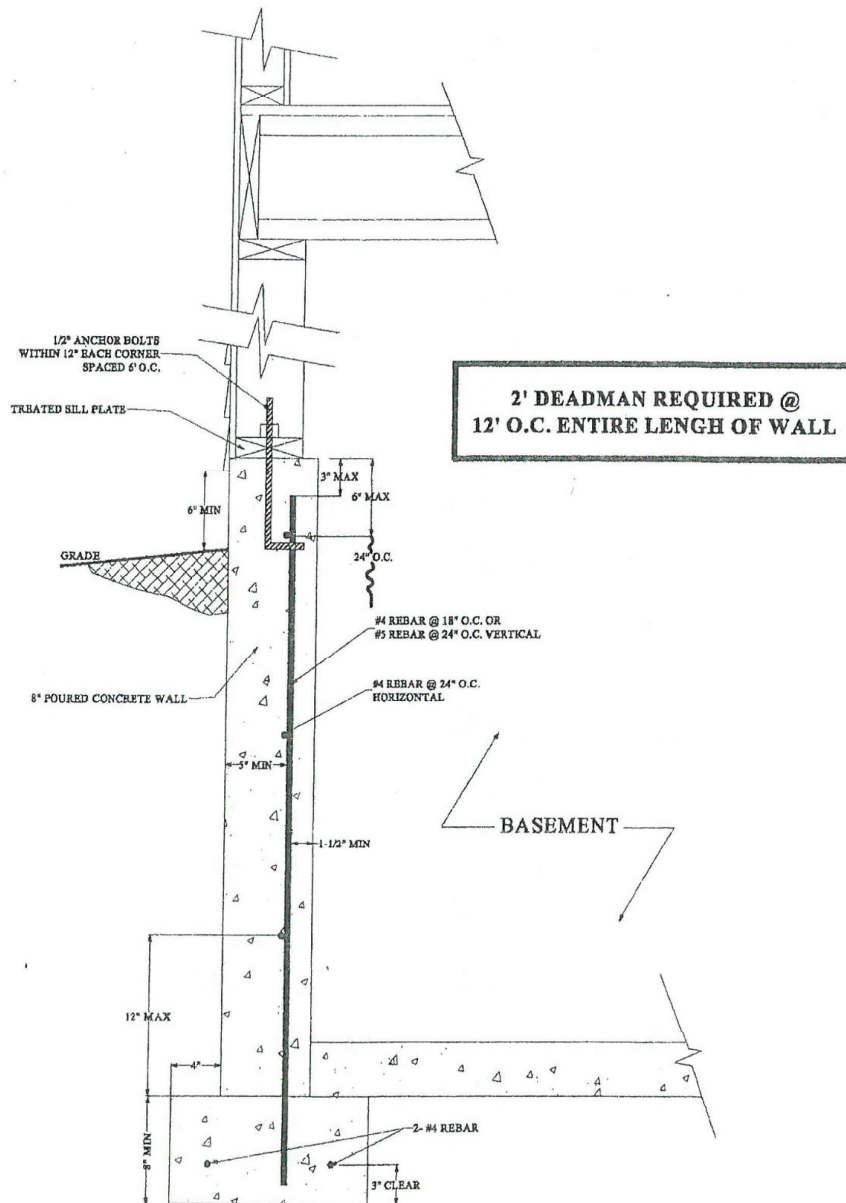


FIGURE R404.1.2.2 (1)

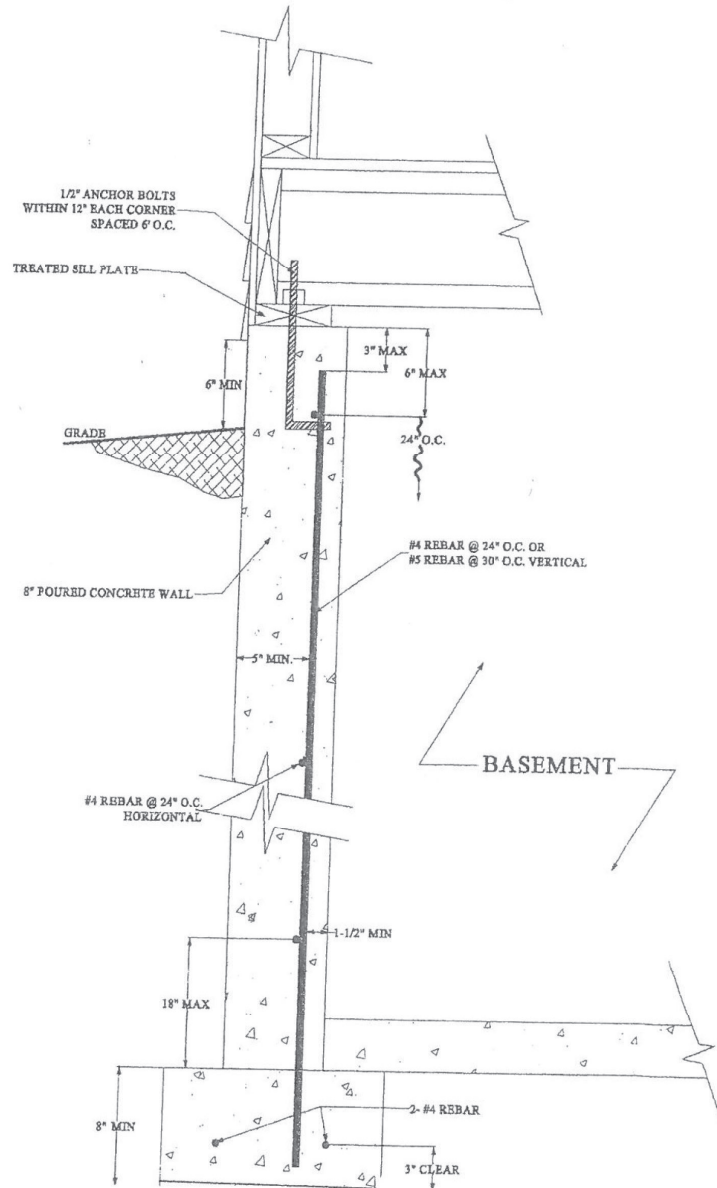
8" PERMANENT POURED DAYLIGHT
BASEMENT WALL SECTION(4' MAX HEIGHT)



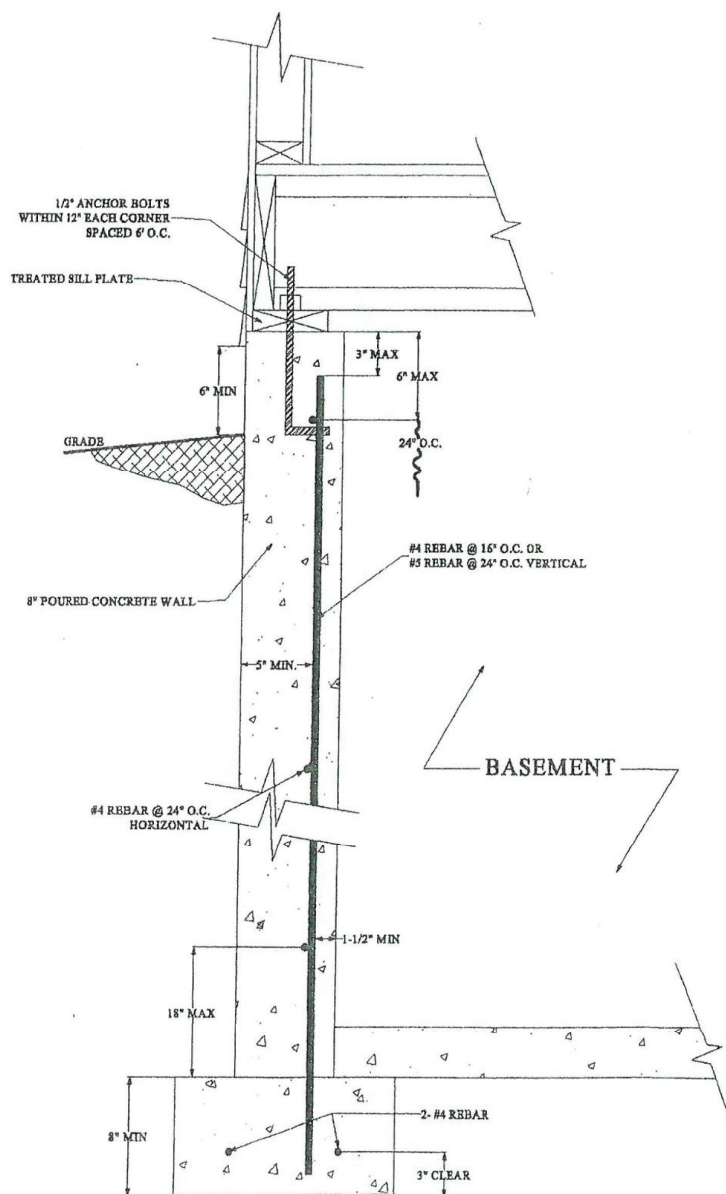
Bennet Residential Code

FIGURE R404.1.2.2 (2)

8" PERMANENT POURED FOUNDATION BASEMENT WALL SECTION(8' MAX HEIGHT)



8" PERMANENT POURED FOUNDATION
BASEMENT WALL SECTION(9' MAX HEIGHT)



Bennet Residential Code

FIGURE R404.1.2.2 (4)

8" PERMANENT POURED FOUNDATION BASEMENT WALL SECTION(10' MAX HEIGHT)

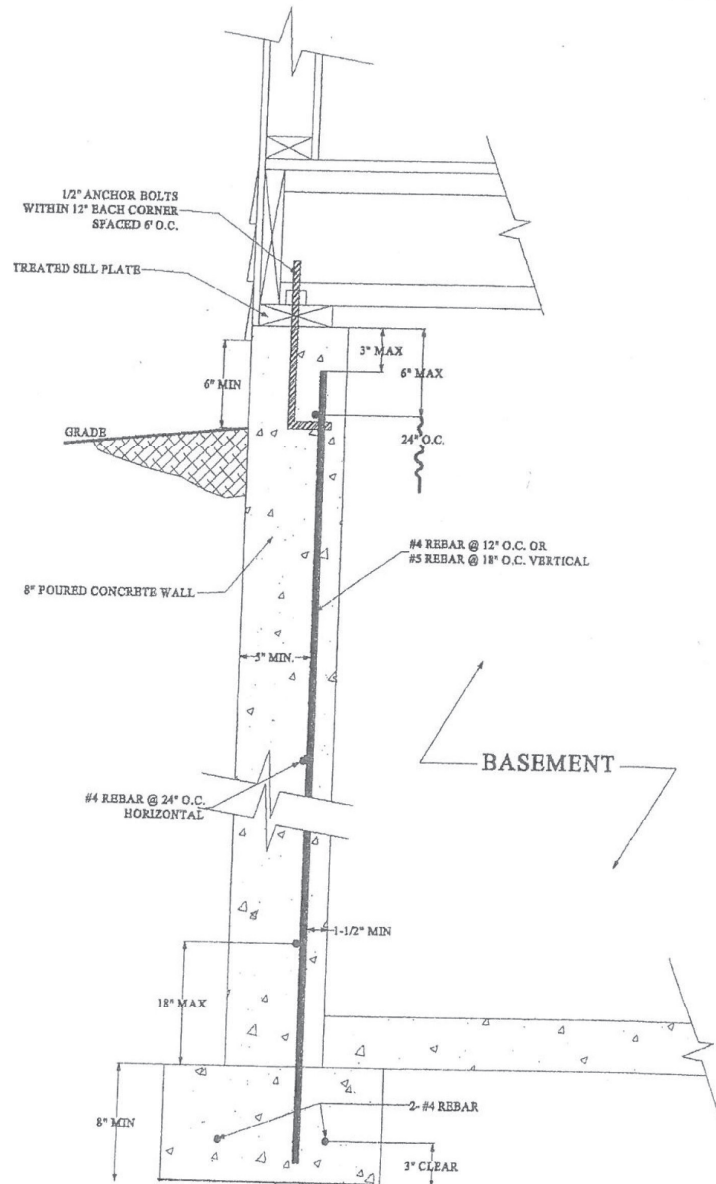
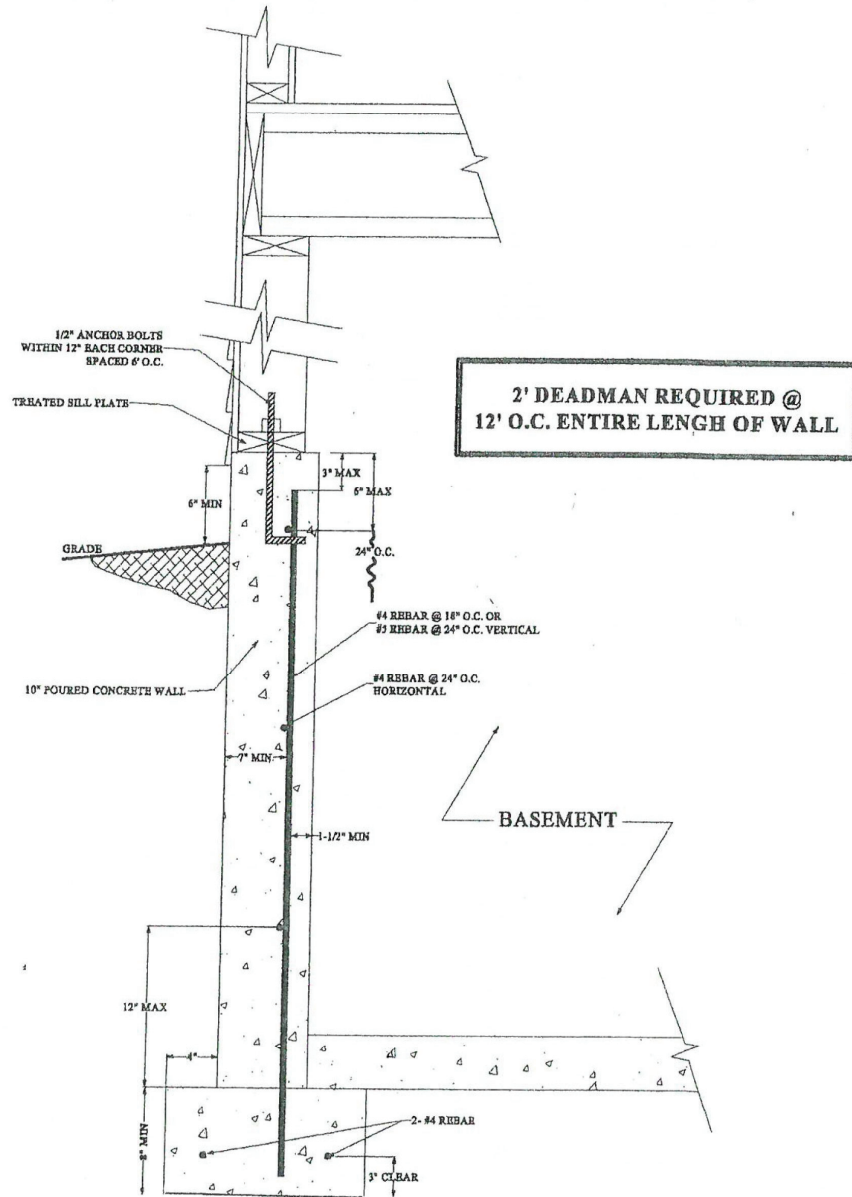


FIGURE R404.1.2.2 (5)

10" PERMANENT POURED DAYLIGHT
BASEMENT WALL SECTION(4' MAX HEIGHT)



Bennet Residential Code

FIGURE R404.1.2.2 (6)

10" PERMANENT POURED FOUNDATION BASEMENT WALL SECTION(8' MAX HEIGHT)

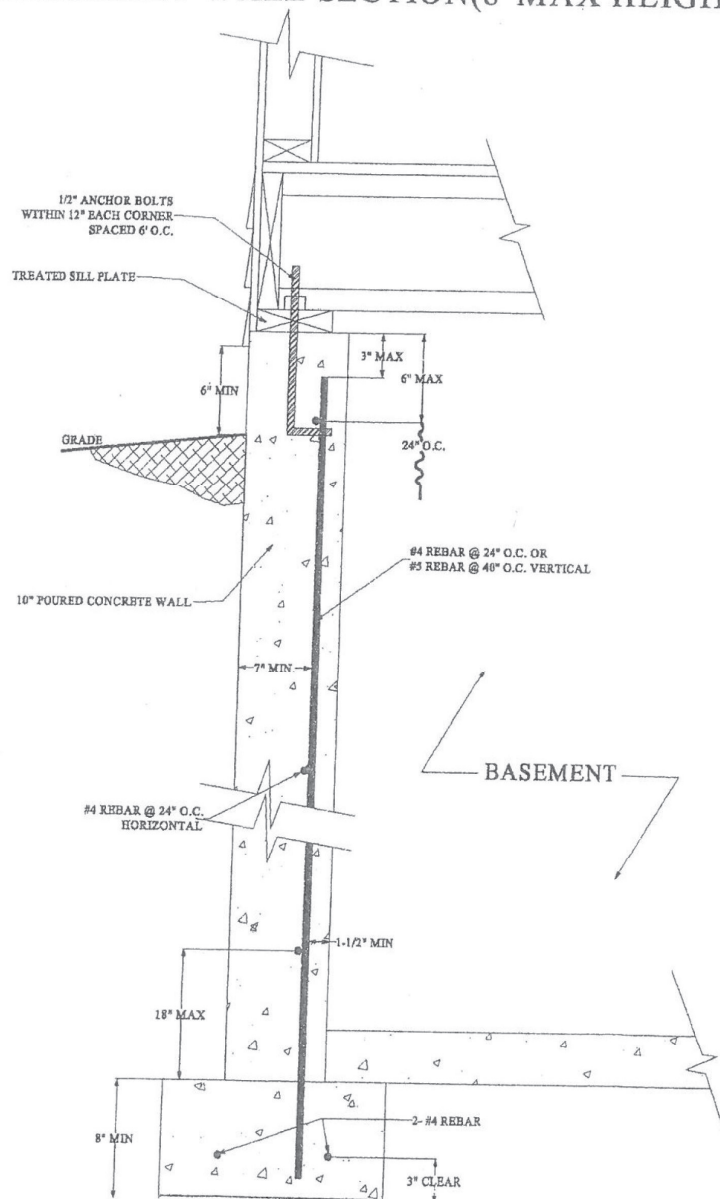
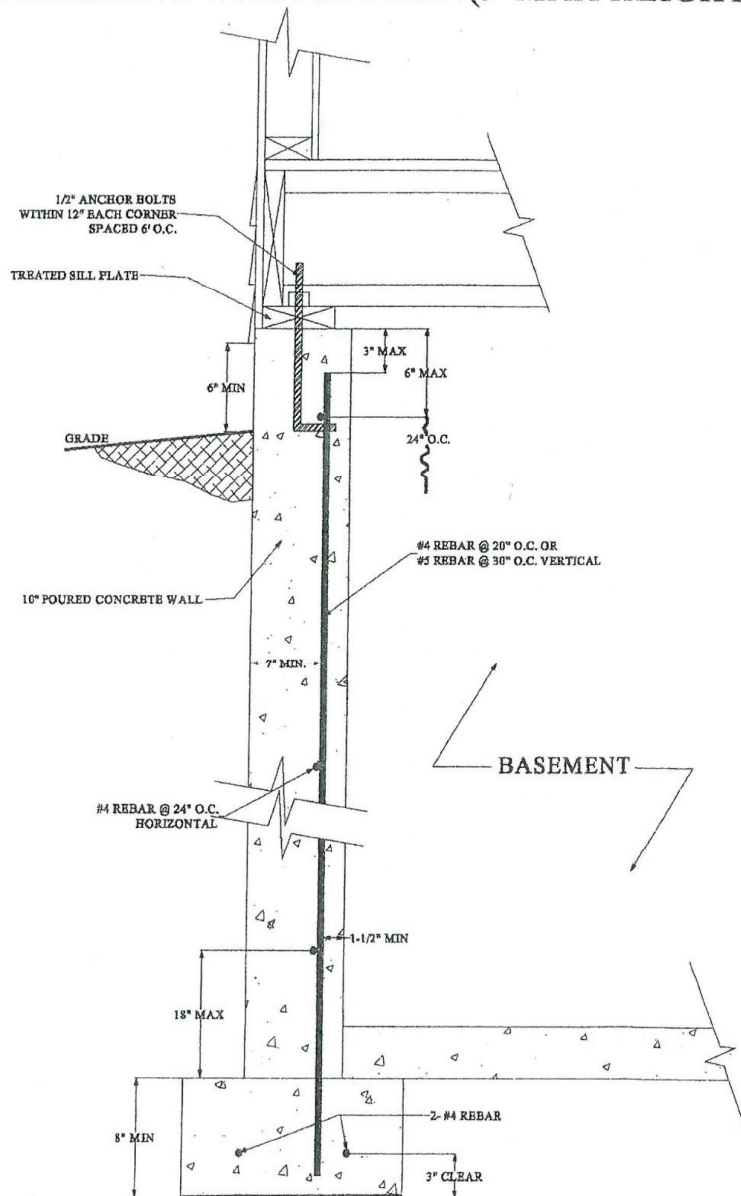


FIGURE R404.1.2.2 (7)

10" PERMANENT POURED FOUNDATION
BASEMENT WALL SECTION(9' MAX HEIGHT)



Bennet Residential Code

FIGURE R404.1.2.2 (8)

10" PERMANENT POURED FOUNDATION BASEMENT WALL SECTION(10' MAX HEIGHT)

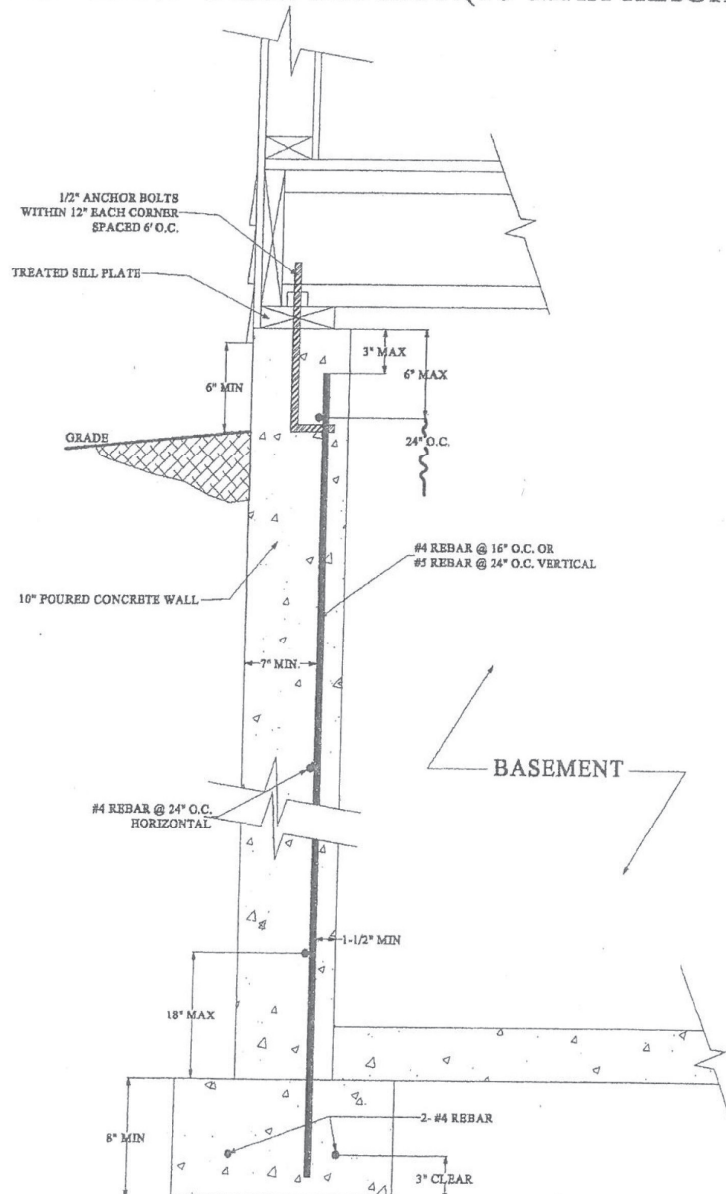
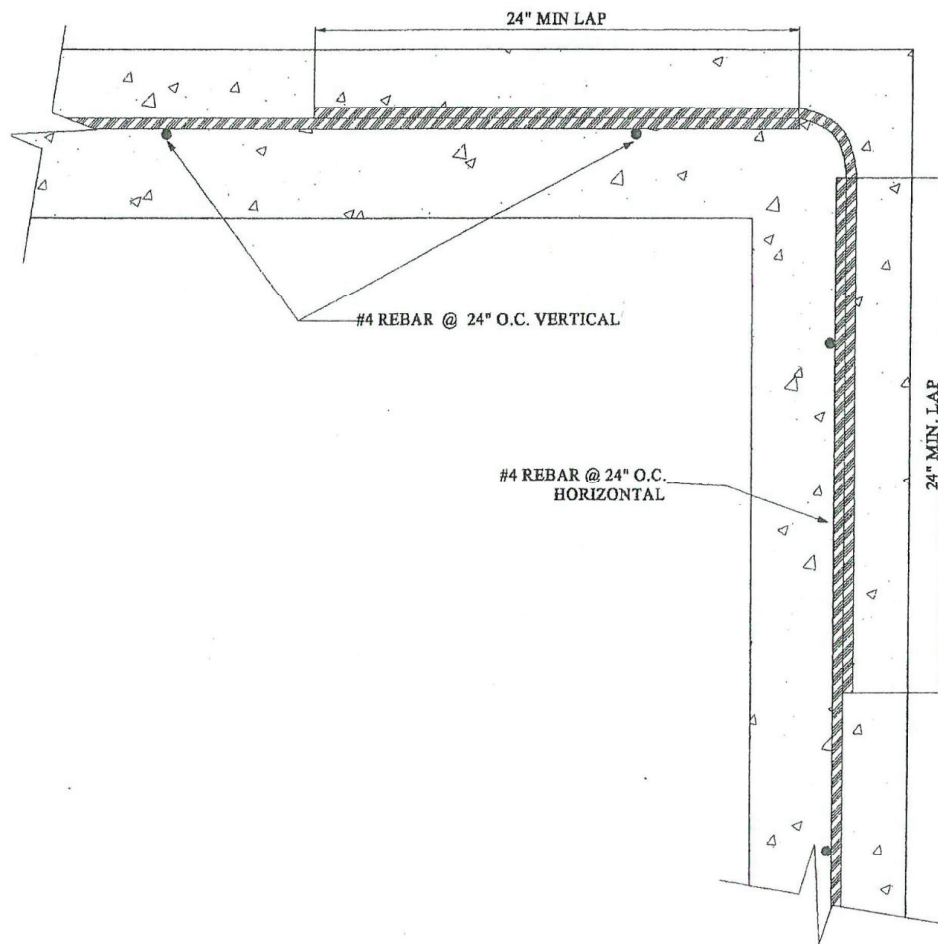


FIGURE R404.1.2.2 (9)

MIN. CONCRETE FOUNDATION
WALL CORNER DETAIL
(RESIDENTIAL POURED WALL)



Bennet Residential Code

FIGURE R404.1.2.2.1

DEADMAN / 4 FOOT CONCRETE WALL 20 FT O.C.

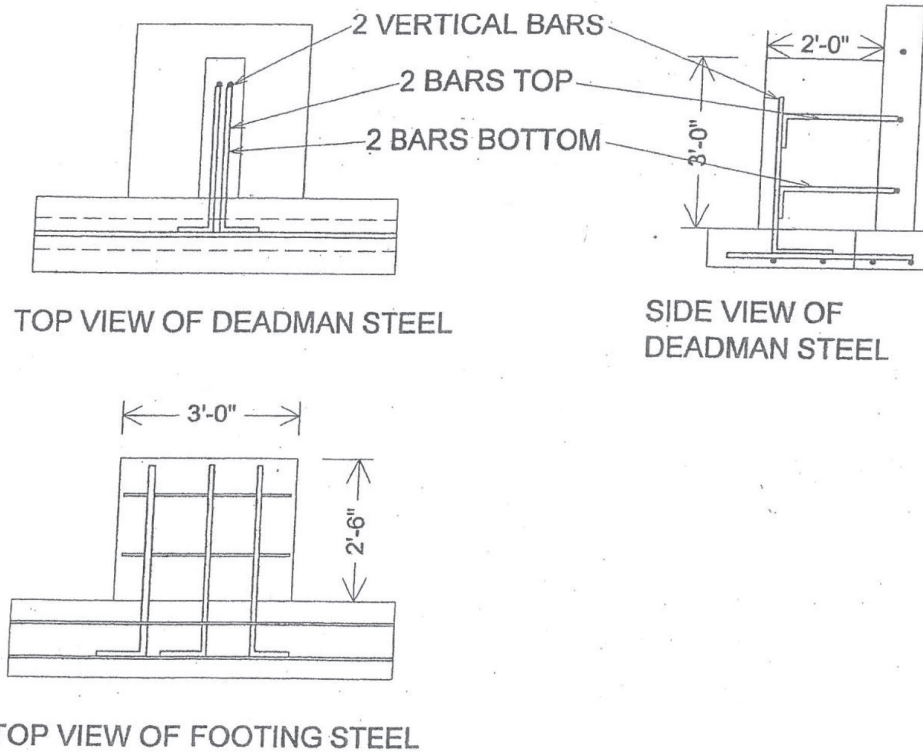


FIGURE R404.1.5.2

GARAGE DOOR STEM WALL FOR BRACED WALL PANEL

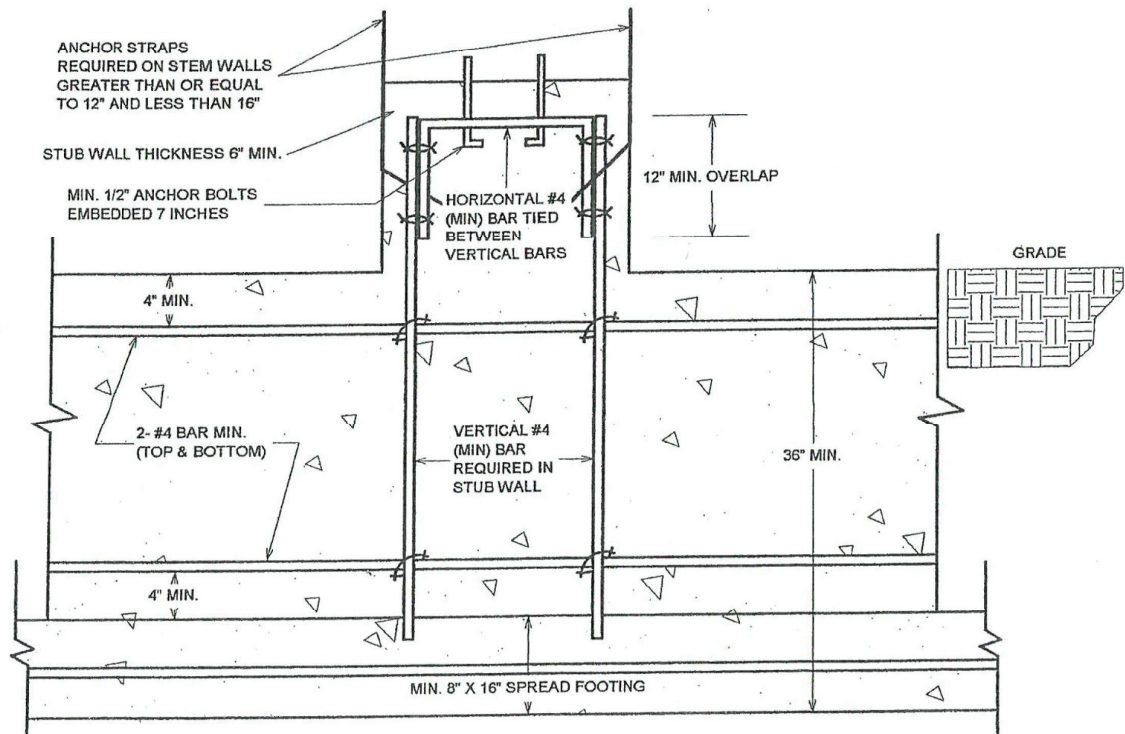
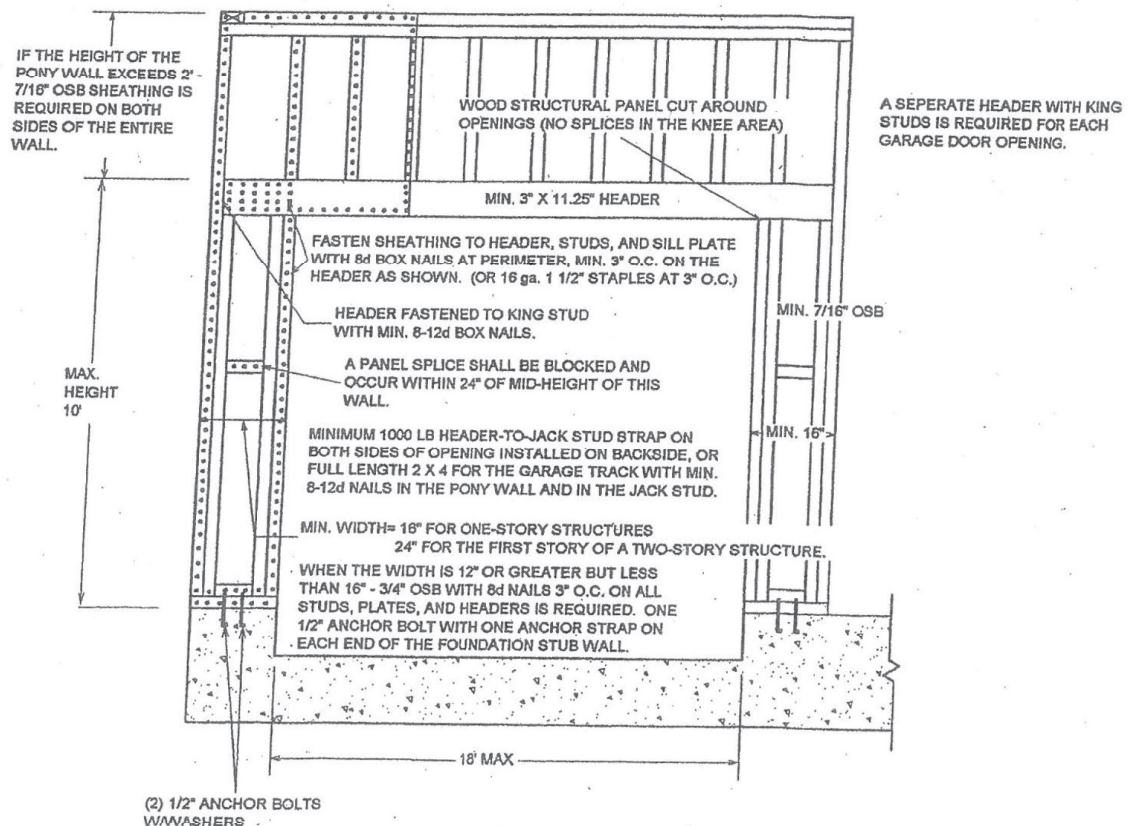


FIGURE 602.10.3.5

**CITY OF LINCOLN/LANCASTER COUNTY
ALTERNATE BRACED WALL PANEL AT GARAGE DOOR OPENINGS**



* A WALL LESS THAN 12" IN WIDTH MUST BE DESIGNED BY A LICENSED ENGINEER.

FIGURE R602.10.4

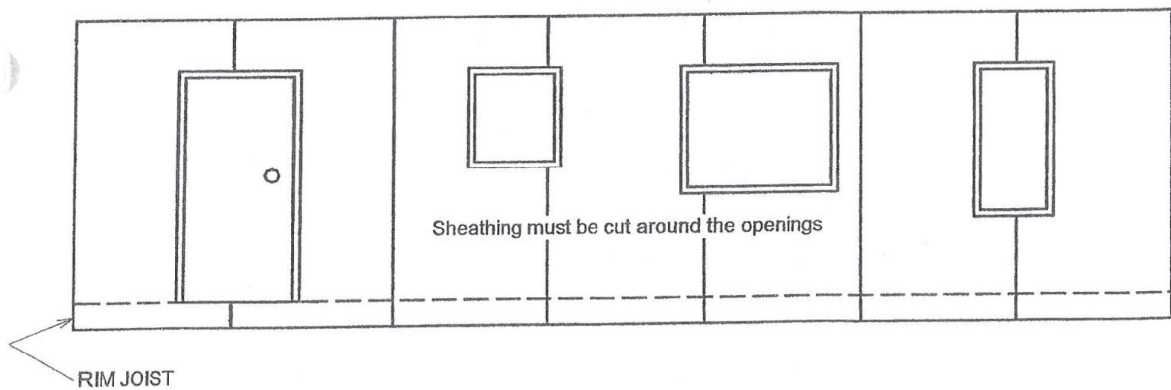
BRACED WALLS USING CONTINUOUS OSB SHEATHING

All Panels are a part of the braced wall and contribute to the total strength of the wall.

Minimum sheathing thickness is 7/16" OSB.

Nailing - 8d-6" perimeter and around openings and 12" in the field, or 1 3/4 16 ga staples 4" perimeter and around openings and 8" in the field.

Sheathing can be vertical or horizontal with no blocking.



Wall sheathing extends to bottom of sill plate or 1" metal strap 4' O.C. minimum.

CHAPTER 142: BENNET MECHANICAL CODE

Sections:

- 142.01 International Mechanical Code, 2009 Edition; Adoption by Reference; Application to Extraterritorial Zoning Jurisdiction
- 142.02 International Mechanical Code; Section 101.1; Amended
- 142.03 International Mechanical Code; Section 103; Deleted
- 142.04 International Mechanical Code; Section 109; Deleted
- 142.05 International Mechanical Code; Section 301.2; Deleted
- 142.06 International Mechanical Code; Section 301.7; Deleted
- 142.07 International Mechanical Code; Section 301.13; Deleted
- 142.08 International Mechanical Code; Section 301.15; Deleted
- 142.09 International Mechanical Code; Chapter 11; Deleted

BENNET MECHANICAL CODE

§ 142.01 INTERNATIONAL MECHANICAL CODE, 2009 EDITION; ADOPTION BY REFERENCE; APPLICATION TO EXTRATERRITORIAL ZONING JURISDICTION.

Except as hereinafter provided by specific amendment, the International Mechanical Code, 2009 Edition, as published by the International Code Council, Inc., a copy of which is on file in the office of the Village Clerk/Treasurer, be and the same is hereby adopted as the Mechanical Code for the Village of Bennet and for the area within its extraterritorial zoning jurisdiction, for the purpose of regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use, or maintenance of mechanical systems as herein provided; providing for the issuance of permits and collection of fees therefor; with the additions, insertions, deletions, and changes as hereinafter provided in this Chapter. (1994 Code, § 9-102) (Ord. 2005-11.1, passed 11-14-2005; Am. Ord. 2005-12.2, passed 12-12-2005; Am. Ord. 2013-8.3, § 1, passed 10-14-2013)

§ 142.02 INTERNATIONAL MECHANICAL CODE; SECTION 101.1; AMENDED.

Section 101.1 of the International Mechanical Code is amended to read as follows:

101.1 Title. These regulations shall be known as the Bennet Mechanical Code and shall be cited as such and will be referred to herein as “this code.” (Ord. 2013-8.3, § 2, passed 10-14-2013)

Bennet – Structural Safety

§ 142.03 INTERNATIONAL MECHANICAL CODE; SECTION 103; DELETED.

Section 103 of the International Mechanical Code (Department of Mechanical Inspection) is deleted in its entirety.

(Ord. 2013-8.3, § 3, passed 10-14-2013)

§ 142.04 INTERNATIONAL MECHANICAL CODE; SECTION 109; DELETED.

Section 109 of the International Mechanical Code (Means of Appeal) is deleted in its entirety.

(Ord. 2013-8.3, § 4, passed 10-14-2013)

§ 142.05 INTERNATIONAL MECHANICAL CODE; SECTION 301.2; DELETED.

That Section 301.2 of the International Mechanical Code (Energy Utilization) is deleted in its entirety.

(Ord. 2013-8.3, § 5, passed 10-14-2013)

§ 142.06 INTERNATIONAL MECHANICAL CODE; SECTION 301.7; DELETED.

Section 301.7 of the International Mechanical Code (Electrical) is deleted in its entirety.

(Ord. 2013-8.3, § 6, passed 10-14-2013)

§ 142.07 INTERNATIONAL MECHANICAL CODE; SECTION 301.13; DELETED.

Section 301.13 of the International Mechanical Code (Flood Hazard) is hereby deleted in its entirety.

(Ord. 2013-8.3, § 7, passed 10-14-2013)

§ 142.08 INTERNATIONAL MECHANICAL CODE; SECTION 301.15; DELETED.

Section 301.15 of the International Mechanical Code (Seismic Resistance) is hereby deleted in its entirety.

(Ord. 2013-8.3, § 8, passed 10-14-2013)

§ 142.09 INTERNATIONAL MECHANICAL CODE; CHAPTER 11; DELETED.

Chapter 11 of the International Mechanical Code (Refrigeration) is hereby deleted in its entirety.

(Ord. 2013-8.3, § 9, passed 10-14-2013)

CHAPTER 143: BENNET FUEL GAS CODE

Sections:

- 143.01 International Fuel Gas Code, 2009 Edition; Adoption by Reference; Application to Extraterritorial Zoning Jurisdiction
- 143.02 International Fuel Gas Code, Section 101.1; Amended
- 143.03 International Fuel Gas Code, Section 103, Deleted
- 143.04 International Fuel Gas Code, Section 109; Deleted
- 143.05 International Fuel Gas Code, Section 301.2; Deleted
- 143.06 International Fuel Gas Code, Section 301.11; Deleted
- 143.07 International Fuel Gas Code, Section 301.12; Deleted

BENNET FUEL GAS CODE

§ 143.01 INTERNATIONAL FUEL GAS CODE, 2009 EDITION; ADOPTION BY REFERENCE; APPLICATION TO EXTRATERRITORIAL ZONING JURISDICTION.

Except as hereinafter provided by specific amendment, the International Fuel Gas Code, 2009 Edition, as published by the International Code Council, Inc., a copy of which is on file in the office of the Village Clerk/Treasurer, be and the same is hereby adopted as the Fuel Gas Code for the Village of Bennet and for the area within its extraterritorial zoning jurisdiction, for the purpose of regulating and governing fuel gas systems and gas fired appliances as herein provided; providing for the issuance of permits and collection of fees therefor; with the additions, insertions, deletions, and changes as hereinafter provided in this Chapter.

(Ord. 2005-11.1, passed 11-14-2005; Am. Ord. 2013-8.4, § 1, passed 10-14-2013)

§ 143.02 INTERNATIONAL FUEL GAS CODE; SECTION 101.1; AMENDED.

Section 101.1 of the International Fuel Gas Code is amended to read as follows:

101.1 Title. These regulations shall be known as the Bennet Fuel Gas Code and shall be cited as such and will be referred to herein as “this code.”

(Ord. 2013-8.4, § 2, passed 10-14-2013)

§ 143.03 INTERNATIONAL FUEL GAS CODE; SECTION 103; DELETED.

Section 103 of the International Fuel Gas Code (Department of Inspection) is deleted in its entirety.

(Ord. 2013-8.4, § 3, passed 10-14-2013)

Bennet – Structural Safety

§ 143.04 INTERNATIONAL FUEL GAS CODE; SECTION 109; DELETED.

Section 109 of the International Fuel Gas Code (Means of Appeal) is deleted in its entirety.
(Ord. 2013-8.4, § 4, passed 10-14-2013)

§ 143.05 INTERNATIONAL FUEL GAS CODE; SECTION 301.2; DELETED.

That Section 301.2 of the International Fuel Gas Code (Energy Utilization) is deleted in its entirety.
(Ord. 2013-8.4, § 5, passed 10-14-2013)

§ 143.06 INTERNATIONAL FUEL GAS CODE; SECTION 301.11; DELETED.

Section 301.11 of the International Fuel Gas Code (Flood Hazard) is deleted in its entirety.
(Ord. 2013-8.4, § 6, passed 10-14-2013)

§ 143.07 INTERNATIONAL FUEL GAS CODE; SECTION 301.12; DELETED.

Section 301.12 of the International Fuel Gas Code (Seismic Resistance) is hereby deleted in its entirety.
(Ord. 2013-8.4, § 7, passed 10-14-2013)

CHAPTER 144: PLUMBING CODE

Sections:

- 144.01 Uniform Plumbing Code, 2009 Edition; Adoption by Reference; Application to Extraterritorial Zoning Jurisdiction
- 144.02 Uniform Plumbing Code; Section 101.1; Amended
- 144.03 Uniform Plumbing Code, Table 6-4; Amended

BENNET PLUMBING CODE

§ 144.01 UNIFORM PLUMBING CODE, 2009 EDITION; ADOPTION BY REFERENCE; APPLICATION TO EXTRATERRITORIAL ZONING JURISDICTION.

The Uniform Plumbing Code, 2009 Edition, as published by the International Association of Plumbing and Mechanical Officials, a copy of which is on file in the office of the Village Clerk/Treasurer, be and the same is hereby adopted as the Plumbing Code for the Village of Bennet and for the area within its extraterritorial zoning jurisdiction, for the purpose of regulating and governing the erection, installation, alteration, repair, relocation, replacement, addition to, use, or maintenance of plumbing systems within the jurisdiction of the Village of Bennet; providing for the issuance of permits and collection of fees therefor; with the amendments, exceptions and deletions as hereinafter provided in this Chapter.

(Ord. 2013-8.5, § 1, passed 10-14-2013)

§ 144.02 UNIFORM PLUMBING CODE; SECTION 101.1; AMENDED.

Section 101.1 of the Uniform Plumbing Code is amended to read as follows:

101.1 Title. This document shall be known as the Bennet Plumbing Code and shall be cited as such and will be referred to herein as “this code.”

(Ord. 2013-8.5, § 2, passed 10-14-2013)

§ 144.03 UNIFORM PLUMBING CODE; TABLE 6-4; AMENDED.

That Table 6-4 of the Uniform Plumbing Code be amended to read as follows:

Bennet – Structural Safety

TABLE 6-4
Materials for Building Supply and Water Distribution Piping and Fittings¹

Material	Building Supply Pipe and Fittings	Water Distribution Pipe and Fittings	Referenced Standards(s) Pipe	Referenced Standard(s) Fittings
Brass	X	X	ASTM B43, ASTM B135	
Copper	X	X	ASTM B42, ASTM B75, ASTM B88, ASTM B251, ASTM B302, ASTM B447	ASME B16.15, ASME B16.18, ASME B16.22, ASME B16.26
Ductile-Iron	X	X	AWWA C151	ASME B16.4, AWWA C110, AWWA C153
Galvanized Steel	X	X	ASTM A53	
Malleable Iron	X	X		ASME B16.3
PE-AL-PE	X	X	ASTM F1282, CSA B137.9	ASTM F1282, ASTM F1974, CSA B137.9
PE (Outside Only)	X ²		ASTM D2239, ASTM D2737, ASTM D3035, AWWA C901, CSA B137.1	ASTM D2609, ASTM D2683, ASTM D3261, ASTM F1055, CSA B137.1
PEX	X	X	ASTM F87, ASTM F877, CSA B137.5	ASTM F877, ASTM F1807, ASTM F1960, ASTM F1961, ASTM F2080, ASTM F2159, CSA B137.5
PEX-AL-PEX	X	X	ASTM F1281, CSA B137.10, ASTM F2262	ASTM F1281, ASTM F1974, ASTM F2434, CSA B137.10
Stainless Steel	X	X	ASTM A269, ASTM A312	

¹Notwithstanding anything to the contrary in Table 6-4 or elsewhere in the Bennet Plumbing Code, all supply pipe carrying or supplying water from the main to the meter pit or curb stop shall be copper tubing (Type K) conforming to the ASTM Standards for copper pipe and fittings referenced in Table 6-4.

²For Building Supply or cold-water applications.
(Ord. 2013-8.5, § 3, passed 10-14-2013)

CHAPTER 145: GENERAL PROVISIONS RELATING TO ADMINISTRATION OF BUILDING CODES

Sections:

- 145.01 Building Official; Designation
- 145.02 Appeals
- 145.03 Permits; Sewer Capacity
- 145.04 Building Permit; Duplicate to County Assessor
- 145.05 Protection of Excavations
- 145.06 Construction Noise; Limitation of Hours
- 145.07 Receptacles for Building Rubbish and Demolition Debris

§ 145.01 BUILDING OFFICIAL; DESIGNATION.

Notwithstanding any provisions of the International Building Code, 2009 Edition, International Residential Code, 2009 Edition, International Mechanical Code, 2009 Edition, Uniform Plumbing Code, 2009 Edition, International Fuel Gas Code, 2009 Edition to the contrary, the Village Clerk/Treasurer is hereby designated as the Building Official for purposes of administration of the Codes. The village may employ, by contract or otherwise, individuals to provide inspection services as required under the Codes, and the persons, when so employed or contracted, shall be under the supervision and direction of the Village Clerk/Treasurer.
(Ord. 2013-8.6, § 1, passed 10-14-2013)

§ 145.02 APPEALS.

(A) In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of the Building Code, Residential Code, Mechanical Code, Plumbing Code, or Fuel Gas Code, there is hereby created a Board of Appeals. The Board of Appeals shall consist of the Village Clerk/Treasurer, the inspector having responsibility for the Code involved, and 1 member of the Board of Trustees designated to serve on the Board of Appeals.

(B) An application for appeal shall be based upon a claim that the true intent of the code provision in question has been incorrectly interpreted, the provisions of the code in question do not fully apply, or an equally good or better form of construction is proposed. The appeal shall be filed on a form obtained from the Building Official within 20 days after the order, decision or determination appealed from.

(C) The Board shall hear the appeal in an informal setting, without the application of formal rules of evidence. The party appealing shall be heard by the Board and may present relevant

Bennet – Structural Safety

testimony and documentary support for the appeal. The Board shall render an opinion in writing within 3 days after the hearing upon the appeal.
(Ord. 2013-8.6, § 2, passed 10-14-2013)

§ 145.03 PERMITS; SEWER CAPACITY.

Notwithstanding anything in this code to the contrary, no building permit shall be issued for any residential or other structure requiring connection to the municipal sewer system, unless there is adequate capacity in the village's waste water treatment facilities to accommodate the additional load as determined by the Nebraska Department of Environmental Quality and in accordance with permits issued to the village by the Department of Environmental Quality.
(Ord. 2013-8.6, § 4, passed 10-14-2013)

§ 145.04 BUILDING PERMIT; DUPLICATE TO COUNTY ASSESSOR.

Whenever a building permit is issued for the erection, alteration, or repair of any building within the jurisdiction of the village, and the improvement is \$2,500 or more, a duplicate of such permit shall be issued to the County Assessor.
(Ord. 2013-8.6, § 5, passed 10-14-2013)

§ 145.05 PROTECTION OF EXCAVATIONS.

Every open excavation on any construction site within the village, including but not limited to excavations for basements and cellars, having a depth of 3 feet or more shall be completely surrounded by temporary fencing, such as silt or snow fence, at all times that construction work is not actively occurring on the site.
(Ord. 2013-8.6, § 6, passed 10-14-2013)

§ 145.06 CONSTRUCTION NOISE; LIMITATION OF HOURS.

No person shall operate or permit the operation of any tools or equipment used in construction, drilling, or demolition work within the village between the hours of 10:00 p.m. and 6:00 a.m. the following day on any day in such a manner as to create a noise disturbance across a residential real property boundary or within any residentially zoned area, except for emergency work. For purposes of this section, a noise disturbance shall mean any sounds not occurring in the natural environment that would tend to annoy or disturb persons with reasonable sensitivities, or which injures or endangers the comfort, health, welfare, hearing, peace, or safety of other persons.
(Ord. 2013-8.6, § 7, passed 10-14-2013)

General Provisions Relating to Administration of Building Codes

§ 145.07 RECEPTACLES FOR BUILDING RUBBISH AND DEMOLITION DEBRIS.

No person shall commence or continue any construction, reconstruction, remodeling, re-roofing, or demolition project on any property within the village without first providing an adequate receptacle located upon the property for the storage of building rubbish or demolition debris generated by such activity. For purposes of this section, a receptacle shall be deemed adequate if it is of sufficient storage capacity to contain all building rubbish or demolition debris generated as the work progresses, with regular collection of the rubbish or debris or regular removal of the receptacle from the property.

(Ord. 2013-8.6, § 8, passed 10-14-2013)

CHAPTER 146: MOVING OF BUILDINGS

Sections:

- 146.01 Moving of Buildings; Regulations
- 146.02 Moving of Buildings; Inspection; Release of Deposit

§ 146.01 MOVING OF BUILDINGS; 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. The fee for such permit shall be established by resolution adopted by the Village Board.

(B) Application may be made to the Village Clerk/Treasurer and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used, and the other information as the Board of Trustees may require. The application shall be accompanied by a certificate issued by the County Treasurer to the effect that all the provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the building is presently located. The Village Clerk/Treasurer shall refer the application to the Board of Trustees for approval of the proposed route over which the building is to be moved. Upon approval of the Board of Trustees, the Village Clerk/Treasurer shall then issue the permit, provided that a good and sufficient corporate surety bond, check, or cash in an amount set by motion of the Board of Trustees and conditioned upon moving the building without doing damage to any private or village property is filed with the Village Clerk/Treasurer prior to the granting of any permit.

(C) No moving permit shall be required to move a building that is 10 feet wide or less, and 20 feet long or less, and when in a position to move, 15 feet high or less.

(D) In the event it will be necessary for any licensed building mover to interfere with the telephone or telegraph poles and wires, or a gas line, the company or companies owning, using, or operating the poles, wires, or line shall upon proper notice of at least 24 hours, be present and assist by disconnecting the poles, wires, or line relative to the building moving operation. All expense of the disconnection, removal, or related work shall be paid in advance by the licensee unless the disconnection or work is furnished on different terms as provided in the company's franchise.

(E) Whenever the moving of any building necessitates interference with a water main, sewer main, pipes, or wire belonging to the village, notice in writing of the time and route of the building moving operation shall be given to the various village officials in charge of the village utility departments who shall proceed in behalf of the village and at the expense of the mover to make the disconnections and do the work as is necessary.

Bennet – Structural Safety

(F) Any building proposed to be moved within or into the corporate limits of the Village must first be inspected for compliance with all applicable codes and if not in compliance, any violations must be corrected to the satisfaction of the building official.
(Ord. 2013-8.7, § 1, passed 10-14-2013)

§ 146.02 MOVING OF BUILDINGS; INSPECTION; RELEASE OF DEPOSIT.

(A) At the time as the building moving has been completed, the designated official shall inspect the premises and report to the Village Clerk/Treasurer as to the extent of damages, if any, resulting from the relocation and whether any village laws have been violated during the operation.

(B) Upon a satisfactory report from the designated official, the Village Clerk/Treasurer shall return the corporate surety bond, cash, or check deposited by the applicant.

(C) In the event the basement, foundation, or portion thereof is not properly filled, covered, or in a clean and sanitary condition, the Board of Trustees may apply the money deposited for the purpose of defraying the expense of correcting the conditions.

(D) If the expense of correcting the hazardous condition is greater than the amount of the deposit set by the Board of Trustees, as required herein, the Board of Trustees may recover the excess expense by civil suit or otherwise as prescribed by law.
(Ord. 2013-8.7, § 2, passed 10-14-2013)

CHAPTER 147: UNSAFE BUILDINGS

Sections:

147.01	Unsafe Buildings; Definition
147.02	Unsafe Buildings; Prohibited
147.03	Unsafe Buildings; Determination; Notice
147.04	Unsafe Buildings; Determination; Appeal
147.05	Unsafe Buildings; Emergency
147.06	Unsafe Buildings; Removal by Village; Special Assessment

§ 147.01 UNSAFE BUILDINGS; DEFINITION.

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

UNSAFE BUILDING.

(1) Any building, shed, fence, or other manmade structure:

(a) Which is dangerous to the public health because of its condition and which may cause or aid in the spread of disease or injury to the health of the occupants of it or neighboring structures;

(b) Which because of faulty construction, age, lack of proper repair, or any other cause is especially liable to fire and constitutes or creates a fire hazard; or

(c) Which by reason of faulty construction or any other cause is liable to cause injury or damage by the collapse or fall of all or any part of the structure.

(2) Any ***UNSAFE BUILDING*** in the village is hereby declared to be a nuisance. (1994 Code, § 9-301) (Ord. 2013-8.8, § 1, passed 10-14-2013)

§ 147.02 UNSAFE BUILDINGS; PROHIBITED.

It shall be unlawful to maintain or permit the existence of any unsafe building in the village, and it shall be unlawful for the owner, occupant, or person in custody of any dangerous building to permit the same to remain in an unsafe condition or to occupy the building or permit it to be occupied while it is in an unsafe condition.

(1994 Code, § 9-302) (Ord. 2013-8.8, § 2, passed 10-14-2013) Penalty, See § 10.99

Bennet – Structural Safety

Statutory reference:

Authority to prevent and abate nuisances and unsafe buildings, See Neb. RS 18-1720, 18-1722, and 18-1722.01

§ 147.03 UNSAFE BUILDINGS; DETERMINATION; NOTICE.

(A) Whenever the Board of Health or designated official is of the opinion that any building or structure in the village is an unsafe building, he or she shall file a written statement to this effect with the Village Clerk/Treasurer. The Clerk/Treasurer shall thereupon cause the property to be posted accordingly, shall file a copy of the determination in the office of the County Register of Deeds, and shall serve written notice upon the owner thereof, and upon the occupant thereof, if any, by certified mail or by personal service.

(B) The notice shall state that the building has been declared to be in an unsafe condition, that the dangerous condition must be removed or remedied by repairing or altering the building or by demolishing it, and that the condition must be remedied within 60 days from the date of receipt. The notice may be in the following terms:

“To _____ (owner-occupant of premises) of the premises known and described as _____.

“You are hereby notified that _____ (describe building) on the premises above mentioned has been determined to be an unsafe building and a nuisance after inspection by _____. The causes for this decision are _____ (here insert the facts as to the dangerous condition).

“You must remedy this condition or demolish the building within 60 days from the date of receipt of this notice or the village will proceed to do so. Appeal of this determination may be made to the Board of Trustees, acting as the Board of Appeals, by filing with the Village Clerk/Treasurer within 10 days from the date of receipt of this notice a request for a hearing.”

(C) If the person receiving the notice has not complied therewith within 60 days from the date of receipt of the notice, or taken an appeal from the determination that a dangerous building exists within 10 days from the time when this notice is served upon the person by personal service or certified mail, the designated official may, upon orders of the Board of Trustees, proceed to remedy the condition or demolish the unsafe building.

(1994 Code, § 9-303) (Ord. 2013-8.8, § 3, passed 10-14-2013)

Statutory reference:

Authority to prevent and abate nuisances and unsafe buildings, See Neb. RS 18-1720, 18-1722, and 18-1722.01

Unsafe Buildings

§ 147.04 UNSAFE BUILDINGS; DETERMINATION; APPEAL.

(A) Upon receiving the notice to repair or demolish the building, the owner of the building, within the time stipulated, may in writing to the Village Clerk/Treasurer request a hearing before the Board of Trustees, sitting as the Board of Appeals, to present reasons why the building should not be repaired or demolished.

(B) The Board of Trustees shall grant the hearing within 10 days from the date of receiving the request.

(C) A written notice of the Board of Trustees' decision following the hearing shall be sent to the property owner by certified mail.

(D) If the Board of Trustees rejects the appeal, the owner shall have 60 days from the sending of the decision to begin repair or demolition and removal.

(E) If after the 60-day period the owner has not begun work, the Board of Trustees shall proceed to cause the work to be done, provided that the property owner may appeal the decision to the appropriate court for adjudication, during which proceedings the decision of the Board of Trustees shall be stayed.

(F) Where the village has not adopted a building code, the statutes of Nebraska relating to bonded indebtedness and collection of delinquent taxes shall apply.
(1994 Code, § 9-304) (Ord. 2013-8.8, § 4, passed 10-14-2013)

Statutory reference:

Authority to prevent and abate nuisances and unsafe buildings, See Neb. RS 18-1720, 18-1722, and 18-1722.01

§ 147.05 UNSAFE BUILDINGS; EMERGENCY.

Where any unsafe building or structure poses an immediate danger to the health, safety, or general welfare of any person or persons and the owner fails to remedy the situation in a reasonable time after notice to do so, the village may summarily repair or demolish and remove the building or structure.

(1994 Code, § 9-305) (Ord. 2013-8.8, § 5, passed 10-14-2013)

§ 147.06 UNSAFE BUILDINGS; REMOVAL BY VILLAGE; SPECIAL ASSESSMENT.

(A) (1) If any owner of any building or structure fails, neglects, or refuses to comply with notice by or on behalf of the village to repair, rehabilitate, or demolish and remove a building or

Bennet – Structural Safety

structure which is unsafe and a public nuisance, the village may proceed with the work specified in the notice to the property owner.

(2) A statement of the cost of the work shall be transmitted to the Board of Trustees.

(B) The Board of Trustees may:

(1) Levy the cost as a special assessment against the lot or real estate upon which the building or structure is located; or

(2) Collect the cost from the owner of the building or structure and enforce the collection by civil action in any court of competent jurisdiction.

(C) Any special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments.

(1994 Code, § 9-306) (Ord. 2013-8.8, § 6, passed 10-14-2013)

Statutory reference:

Authority to prevent and abate nuisances and unsafe buildings, See Neb. RS 18-1720, 18-1722, and 18-1722.01

CHAPTER 148: MINIMUM HOUSING CODE

Sections:

148.01	Title
148.02	Purpose
148.03	Scope
148.04	Enforcement
148.05	Substandard Buildings; Nuisance
148.06	Definitions
148.07	Sanitation
148.08	Heating; Ventilation of Equipment
148.09	Substandard Buildings; Defined
148.10	Placarding
148.11	Appeals
148.12	Violations

§ 148.01 TITLE.

This Chapter shall be known as the “Minimum Housing Code” and may be cited as such.
(Ord. 2012-3.1 § 1, passed 5-14-2012.)

§ 148.02 PURPOSE.

The purpose of this Chapter is to provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the use and occupancy of residential buildings and structures within the corporate limits of the Village of Bennet.
(Ord. No. 2012-3.1 § 2, passed 5-14-2012)

§ 148.03 SCOPE.

The provisions of this Code shall apply to all buildings or portions thereof used, or designed or intended to be used, for human habitation.
(Ord. No. 2012-3.1 § 3, passed 5-14-2012)

§ 148.04 ENFORCEMENT.

(A) The Building Official is hereby authorized to enforce all of the provisions of this Code.

Bennet – Structural Safety

(B) Whenever the Building Official determines that there has been a violation of this Code or has grounds to believe that a violation has occurred, notice shall be given to the owner and any occupant of the dwelling, or any other person responsible for the violation, directing such person or persons to abate the violation within ten (10) days of receipt of the notice, or to appeal the determination to the Village Board of Trustees, which shall act as a Board of Appeals. If the violation is not abated within such period, or if an appeal has not been taken, then the Building Official shall proceed to placard the dwelling as hereinafter provided.

(C) Notice shall be deemed to be properly served if a copy thereof is:

(1) Delivered personally;

(2) Sent by certified or first class mail addressed to the address listed in the records of the county assessor, if one is available; or

(3) If notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.
(Ord. No. 2012-3.1 § 4, passed 5-14-2012)

§ 148.05 SUBSTANDARD BUILDINGS; NUISANCE.

All buildings or portions thereof which are determined to be substandard as defined in § 154.09 are hereby declared to be public nuisances and may be abated in accordance with the procedure hereinafter specified.
(Ord. No. 2012-3.1 § 5, passed 5-14-2012)

§ 148.06 DEFINITIONS.

For purposes of this Chapter, certain terms, phrases, and words shall be defined as specified in either this Chapter or as specified in the Building Code.

BUILDING CODE. The building code as set forth in Chapter 140 of the Code of Bennet.

BUILDING OFFICIAL. The Village Clerk/Treasurer is hereby designated as the Building Official for purposes of administration of this Code.

HOT WATER. Hot water supplied to plumbing fixtures at a temperature of not less than 110 degrees F.

MECHANICAL CODE. As set forth in Chapter 142 of the Code of Bennet.
(Ord. No. 2012-3.1 § 6, passed 5-14-2012)

Minimum Housing Code

§ 148.07 SANITATION.

(A) Dwelling Units. Every dwelling unit shall be provided with a bathroom equipped with facilities consisting of a toilet, sink, and either a bathtub or shower.

(B) Fixtures. All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system. All plumbing fixtures shall be connected to an approved system of water supply and provided with hot and cold running water necessary for its normal operation.

All plumbing fixtures shall be of an approved glazed earthenware type or of a similarly nonabsorbent material.

(C) Installation and Maintenance. All sanitary facilities shall be installed and maintained in safe and sanitary condition and in accordance with all applicable laws.
(Ord. No. 2012-3.1 § 7, passed 5-14-2012)

§ 148.08 HEATING; VENTILATION OF EQUIPMENT.

(A) Heating. Every dwelling unit and guest room shall be provided with heating facilities capable of maintaining a room temperature of 70 degrees F, at a point three (3) feet above the floor in all habitable rooms. Such facilities shall be installed and maintained in a safe condition and in accordance with the Building Code, the Mechanical Code and all other applicable laws. Unvented fuel burning heaters shall not be permitted. All heating devices or appliances shall be of an approved type.

(B) Electrical Equipment. All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with all applicable laws. All electrical equipment shall be of an approved type.

(C) Ventilation. Ventilation for fuel burning appliances shall be provided as required in the Mechanical Code and in this Code.
(Ord. No. 2012-3.1 § 8, passed 5-14-2012)

§ 148.09 SUBSTANDARD BUILDINGS; DEFINED.

Any building or portion thereof including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that it endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building:

(A) Inadequate Sanitation. Inadequate sanitation shall include, but not be limited to, the following:

Bennet – Structural Safety

(1) Lack of or improper toilet, sink, bathtub or shower in a dwelling unit as described in § 148.07.

(2) Lack of hot and cold running water to plumbing fixtures in a dwelling unit as described in § 148.07.

(3) Lack of adequate heating facilities as described in § 148.08.

(4) Lack of connection to required sewage disposal system as described in § 148.07(B).

(5) Lack of connection to an approved water supply as required by § 148.07(B).

(B) Hazardous Wiring. All electrical wiring, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.

(C) Hazardous Plumbing. All plumbing, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and which is free of cross connections and siphonage between fixtures.
(Ord. No. 2012-3.1 § 9, passed 5-14-2012)

§ 148.10 PLACARDING.

Any substandard building for which a notice has been issued by the Building Official and for which the defect or defects upon which the notice were based have not been eliminated or an appeal to the Village Board of Trustees has not been filed, shall be placarded by the Building Official. The Building Official shall cause to be posted at each entrance to such substandard building a notice reading as follows: “This structure is unsafe and its occupancy has been prohibited by the Building Official.” It shall be unlawful for any person to enter such structure, except for the purpose of securing the structure, making the required repairs, removing the hazardous condition, or demolishing the same.

The Building Official shall remove the placard whenever the defect or defects upon which the placarding action were based have been eliminated. It shall be unlawful for any person to deface or remove a placard without the approval of the Building Official and any person so doing shall be subject to prosecution.

Any occupied structure placarded by the Building Official shall be vacated. It shall be unlawful for any person to occupy a placarded premises or for any owner or any person responsible for the premises to allow anyone to occupy a placarded premises and any person so doing shall be subject to prosecution.
(Ord. No. 2012-3.1 § 10, passed 5-14-2012)

Minimum Housing Code

§ 148.11 APPEALS.

The Board of Trustees shall serve as the Board of Appeals for any appeals filed under this Code. All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Building Official and any person whose interests are affected shall be given an opportunity to be heard and to present any evidence on the issue as to whether or not the Code violations or defects exist, or have been adequately remedied. The Board may affirm, modify, or reverse the decision of the Building Official by a concurring vote of a majority of the total number of elected Board members.

(Ord. No. 2012-3.1 § 11, passed 5-14-2012)

§ 148.12 VIOLATIONS.

It shall be unlawful for any person, firm, or corporation, to use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this Chapter.

(Ord. No. 2012-3.1 § 12, passed 5-14-2012)

TITLE XV: LAND USAGE

Chapters:

- 151. SUBDIVISION REGULATIONS**
- 152. ZONING CODE**
- 153. COMPREHENSIVE PLAN**

Bennet – Land Usage

CHAPTER 151: SUBDIVISION REGULATIONS

Sections:

General Provisions

151.001	Purpose
151.002	Jurisdiction
151.003	Powers
151.004	Interpretation
151.005	Conflict
151.006	Building Permits
151.007	Amendments
151.008	Modifications
151.009	Definitions

Procedure for Subdivision Approval

151.025	Pre-Application Procedure
151.026	Preliminary Plat
151.027	Final Plat
151.028	Minor Subdivision Replat
151.029	Plats outside Corporate Limits
151.030	Submission to the School Board and Rural Fire District
151.031	Referred to Village Engineer; Additional Professional Assistance

Plat Specifications

151.045	Preliminary Plat
151.046	Final Plat

Design Standards

151.060	Conformance to the Comprehensive Plan
151.061	Conformance to the Street Plan
151.062	Street Classification Table
151.063	Cul-de-sacs; Dead-End Streets
151.064	Intersections and Jogs
151.065	Alleys
151.066	Lot Access
151.067	Blocks
151.068	Minimum Lot Dimensions
151.069	Easements
151.070	Location of Water and Sewer

Bennet – Land Usage

151.071	Public Sites and Open Spaces
151.072	Provisions for Large Parcels
151.073	Outlots; Maintenance; Association.
151.074	Improvement of Parking Areas; Parking Restrictions; Screening

Subdivision Improvements

151.085	Monuments
151.086	Water Lines
151.087	Sanitary Lines
151.088	Storm Drains
151.089	Sidewalks
151.090	Grading
151.091	Curb and Gutter
151.092	Surfacing
151.093	Specifications
151.094	Other Improvements
151.095	Village Control

Enforcement

151.110	Street Plan
151.111	Filing
151.112	Fees
151.113	Subdivision Tax; Amount of Tax; Deposit with Village Clerk/Treasurer

Amendments

151.125	Amendments
151.999	Penalty

GENERAL PROVISIONS

§ 151.001 PURPOSE.

The subdivision regulations as herein set forth are intended to provide for harmonious development of the village and its environs; for the integration of new subdivision streets with other existing or planned streets or with other features of the comprehensive plan of the village; for adequate open spaces for traffic, recreation, light, and air; for the distribution of population and traffic in a manner which will tend to create conditions favorable to health, safety, convenience, or prosperity; to ensure conformance of subdivision plans with the capital improvement program of the village and its

Subdivision Regulations

planning area; and to secure equitable handling of all subdivision plats by providing uniform procedures and standards for observance by subdividers, the Planning Commission, and Board of Trustees.

(Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.002 JURISDICTION.

The provisions of these regulations shall apply to all land located within the legal boundaries of the village, as the same may be amended by subsequent annexation, and shall also include all land lying within 1 mile of the corporate limits of the village, and not located in any other village.

(Neb. RS 17-1002) (Ord. 1997-7.1, § 3, passed 7-14-1997)

Cross-reference:

Village limits, See § 11.02

§ 151.003 POWERS.

No plat of a subdivision of land lying within the zoning jurisdiction of the village shall be filed or recorded until it shall have been submitted to, and a report and recommendation thereon made, by the Planning Commission to the Board of Trustees and the Board of Trustees has approved the final plat.

(Neb. RS 17-1003) (Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.004 INTERPRETATION.

In interpreting and applying these regulations, they shall be held to be minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare.

(Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.005 CONFLICT.

(A) No final plat of land within the force and effect of Chapter 152 shall be approved unless it conforms to the regulations of this chapter.

(B) Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in Chapter 152, Chapter 140, or other official regulations or ordinances, the most restrictive shall apply.

(Neb. RS 19-914) (Ord. 1997-7.1, § 3, passed 7-14-1997)

Bennet – Land Usage

§ 151.006 BUILDING PERMITS.

Not more than 1 building permit for a permitted use shall be issued for each separate tract existing at the effective date of this chapter unless the tract shall have been platted in accordance with the provisions of this chapter.

(Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.007 AMENDMENTS.

Any regulations or provisions of these regulations may from time to time be amended, supplemented, changed, modified, or repealed by the Board of Trustees. The amendments shall not become effective until after a public hearing before the Planning Commission in relation thereto has been held, public notice of which shall have been published in a newspaper of general circulation at least 1 time 10 days prior to the hearing.

(Neb. RS 19-904, 19-905) (Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.008 MODIFICATIONS.

Where in the case of particular proposed subdivision, it can be shown that strict compliance with the requirements of this regulation would result in extraordinary hardship to the subdivider because of unusual topography, or other the nonself-inflicted conditions, or that these conditions would result in inhibiting the achievement of the objectives of these regulations, the Board of Trustees, after report by Planning Commission may vary, modify, or waive the requirements so that substantial justice may be done and the public interest secured; provided, however, that: the variance, modifications, or waiver will not adversely affect the development, the character of which shall be in conformance with recommended platting and development practices in the general area of the proposed subdivision; will not have the effect of nullifying the intent and purpose of the regulations; and will not interfere with carrying out the comprehensive plan of the planning area of the village. The standards and requirements of these regulations may be modified by the Board of Trustees after report by the Planning Commission in the case of a plan or program for a new town, a complete community, a neighborhood unit, a group housing development, or an urban renewal project involving the resubdividing and rebuilding of blighted or slum areas.

(Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.009 DEFINITIONS.

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

ALLEY. A public right-of-way which is used primarily for vehicular access to the back or side of properties otherwise abutting on a street.

Subdivision Regulations

BLOCK. A tract or parcel of land bounded by public streets or lands, streams, railroads, unplatted lands, or a combination of same.

BUILDING INSPECTOR. The Building Inspector of the Village of Bennet, Nebraska.

CLERK/TREASURER. Village Clerk/Treasurer of the Village of Bennet, Nebraska.

COMPREHENSIVE PLAN. The plan or series of plans for the future development of the village and approved, as may be required as a guide for future development. The plan may alternatively be called by the descriptive terms as a “master plan” or “development plan.”

CUL-DE-SAC. A short public way with 1 end open to traffic and the other end terminated by vehicular turn-around.

DEAD-END STREET. A public way which has only 1 outlet for vehicular traffic and does not terminate in a vehicular turn-around.

DEDICATION. The intentional transfer of specified lands by the owner to some public use.

DEVELOPER. See “Subdivider.”

EASEMENT. A grant by the property owner of the use of a strip of land by the public, or a public agency or utility for a specific purpose or purposes.

ENGINEER. The engineer ordinarily retained by the Village of Bennet, Nebraska, for the recommendation, advice, and execution of engineering work.

FRONTAGE ROAD. Minor streets parallel to and adjacent to arterial streets and highways, and which reduce the number of access points to the arterial street or highway for the purpose of increased traffic safety.

GOVERNING BODY. The Village Board of Bennet, Nebraska.

IMPROVEMENTS. Street grading, street surfacing and paving, curbs and gutters, street lights, street signs, sidewalks, crosswalks, water mains and lines, water meters, fire hydrants, sanitary sewers, storm drainage facilities, culverts, bridges, public utilities, or other installation as designated by the Village Board or its specific approving authority.

LOT. A measured portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or for development.

LOT, DEPTH OF. The mean horizontal distance between the front and rear lot lines.

LOT, DOUBLE, FRONTAGE. A lot having frontage on 2 nonintersecting streets.

Bennet – Land Usage

LOT, REVERSIBLE FRONTAGE. A lot which extends continuously between 2 parallel or approximately parallel streets bounding a block and is abutted along 1 street frontage by an easement for screen planting. A block containing reverse frontage lots is composed of 1 tier of lots rather than the standard 2 tiers.

LOT, WIDTH OF. The minimum street frontage measured along the front street property line except when a lot fronts on the inside or concave side of a cul-de-sac or horizontal curvilinear alignment of a street; in which case, the minimum lot width shall be measured along the building line of the principal use structure extended to both lot property lines that meets or exceeds the zoning setback requirements for that district.

MONUMENT. An identification marker established by certified land survey and set by a registered land surveyor at each section corner, angle point, block corner, street center line, or other point.

PLANNING COMMISSION. The Planning Commission of the Village of Bennet, Nebraska.

PLAT.

(1) A map drawn to scale from an accurate survey and including items set forth herein along with all certificates and statements required herein and by statute, for the purpose of recording as a subdivision of land.

(2) Without modifying adjectives, it shall refer to land subdivision documents which have been officially recorded.

STREET. A right-of-way, dedicated to public use, which affords a primary means of access to the abutting property.

STREET, ARTERIAL. A street designated as an arterial street in the comprehensive plan for the village or the 1 and 6 Year Improvement Plan.

STREET, COLLECTOR. A street designated as a collector street in the comprehensive plan for the village or the 1 and 6 Year Improvement Plan.

STREET, LOCAL/RESIDENTIAL. A low volume street intended to serve individual residences in a residential district.

SUBDIVIDER. A natural person, firm, partnership, association, or any other group who submits a proposed subdivision for approval.

Subdivision Regulations

SUBDIVISION. The division of a lot, tract, or parcel of land into 2 or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or building development, except that the division of land shall not be considered to be a subdivision when the smallest parcel created is more than 10 acres in area.

(Ord. 1997-7.1, § 3, passed 7-14-1997; Am. Ord. 2004-12.1, passed 12-13-2004)

§ 151.010 PUBLICATION (Repealed Ord. 2007-1.1, § 1, passed 1-8-2007)

PROCEDURE FOR SUBDIVISION APPROVAL

§ 151.025 PRE-APPLICATION PROCEDURE.

Before filing a preliminary plat, the subdivider shall consult with the Planning Commission for advice regarding general requirements affecting the proposed development. A sketch of the proposed subdivision drawn on the topographic survey map shall be submitted. The subdivider shall also submit a location map showing the relationship of the proposed subdivision to existing or platted streets and arterials and existing community facilities. The pre-application procedure does not require formal application, fee, or the filing of plat with the Planning Commission.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.026 PRELIMINARY PLAT.

In obtaining approval for a proposed subdivision, the subdivider shall submit a preliminary plat showing and including data specified in §§ 151.045 *et seq.* and in accordance with the following procedure:

(A) The subdivider shall prepare a preliminary plat and file with the village 6 copies of the preliminary plat, together with an additional 8 inches x 11 inches version capable of being photocopied, a written application, and the fee as set by resolution of the Board of Trustees.

(B) The Village Clerk/Treasurer shall notify the Board of Trustees of the application and shall refer the proposed preliminary plat to the Planning Commission for their consideration. The preliminary plat shall be referred to the Planning Commission at least 15 days prior to the meeting at which it is to be reviewed.

(C) The Planning Commission shall examine the plat as to its compliance with these regulations, and the Comprehensive Development Plan, and shall have 60 days in which to submit a written recommendation to the Board of Trustees for their consideration. In case of modification or disapproval, the Commission shall give its reasons.

Bennet – Land Usage

(D) The Board of Trustees upon receiving the Commission's recommendation, or after 45 days, shall by resolution grant approval or reject the preliminary plat. Approval of preliminary plat by the Board of Trustees or any extension thereof shall constitute approval to proceed with the preparation of the final plat but shall not be deemed approval of the subdivision.

(Ord. 1997-7.1, § 3, passed 7-14-1997; Am. Ord. 2007-1.1, § 2, passed 1-8-2007) Penalty, See § 151.999

§ 151.027 FINAL PLAT.

In obtaining approval for a proposed subdivision, the subdivider shall submit a final plat showing and including the data specified by §§ 151.045 *et seq.* in accordance with the following procedure.

(A) A final plat shall be submitted within 12 months of the approval of the preliminary plat, or the approval shall expire and the preliminary plat shall be resubmitted for approval prior to the preparation of the final plat.

(B) Procedures for final plat shall be the same as set out for the preliminary plat.

(C) Upon approval of the final plat, a certification of approval signed by the Village Chairperson and attested by the Village Clerk/Treasurer shall be affixed to the original of the final plat and copies of the same filed with the County Clerk and County Register of Deeds, along with the other certifications and instruments as may be required by law.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.028 MINOR SUBDIVISION REPLAT.

(A) *General.* Minor subdivision or administrative replat shall only be used to create a maximum of 4 lots from any lot, tract, or parcel of land. If the 4 lots have been created under this procedure since January 1980, any further subdivision shall not be done without submission of both preliminary and final plats. Exceptions to the foregoing restriction shall be permitted only to allow adjustment of lot lines in cases of mistake or error or in cases of substantial hardship in connection with the establishment of necessary minimum area or yard requirements as set forth in the Zoning Regulations (Chapter 152). The Board of Trustees or its designated agent may approve or disapprove lot splits in accordance with the following regulations.

(B) *Application procedure.* Requests shall be made by or through the owner of the land to the Village Clerk/Treasurer. Six copies of a scale drawing of the lots involved and any structures thereon, together with an additional 8 ½ inches x 11 inches version capable of being photocopied and the application fee as set by resolution of the Board of Trustees, shall accompany the application. All replats of lots and minor subdivision shall be filed with the village and approved by the village before any transfer of title or ownership. The replats and lot splits shall be drawn to a scale of not to exceed 1 inch equal to 100 feet, including lot dimensions, a form for the certification by a registered land

Subdivision Regulations

surveyor, a form for the certification of the County Treasurer that all tax obligations are current, a form for the approval by the village, and a form for a notarized certification signed and acknowledged by all parties having any titled interest. The replats will be drawn on a sheet 18 inches x 28 inches, or as approved by the Register of Deeds. The replats will automatically vacate the previous plat of record upon filing with the Register of Deeds.

(C) *Approval guidelines.* Approval or disapproval of lot splits shall be made, based on the following guidelines.

(1) No minor subdivision shall be approved where:

(a) A new street or alley is needed or proposed;

(b) A vacation of streets, alleys, setback lines, access control, or easements is required or proposed;

(c) If the action will result in significant increases in service requirements, e.g., utilities, schools, traffic control, streets, and the like; or will interfere with maintaining existing service level, e.g., additional curb cuts, repaving, and the like;

(d) There is less street right-of-way than required by these regulations or the Comprehensive Development Plan unless the dedication can be made by separate instrument;

(e) All easement requirements have not been satisfied;

(f) If the split results in a tract without direct access to a street;

(g) A substandard-sized lot or parcel will be created that is not in conformance with the Zoning Ordinance; or

(h) If the lot has been previously split in accordance with these regulations.

(2) No lot split shall be approved unless all required public improvements have been installed or the developer has submitted an improvements agreement approved by the Village Board, no new dedication of public right-of-way or easements is involved, and the subdivision complies with the Zoning Regulations (Chapter 152) requirements concerning minimum areas and dimensions of the lots.

(3) (a) The village shall, in writing, either approve, with or without conditions, or disapprove the lot split within 30 days of application.

(b) The village shall sign and furnish a certificate of approval to be affixed to the lot split survey and a certified copy thereof shall be filed with the Register of Deeds, the official designated to issue building or occupancy permits, and a copy shall be furnished to the applicant.

Bennet – Land Usage

(Ord. 1997-7.1, § 3, passed 7-14-1997, Am. Ord. 2007-1.1, § 3, passed 1-8-2007) Penalty, See § 151.999

§ 151.029 PLATS OUTSIDE CORPORATE LIMITS.

Procedure for approval of preliminary and final plats of land within 1 mile of the corporate limits shall be the same as set out above, except that 6 copies of the plat shall be filed at the Office of the Village Clerk/Treasurer. The Village Clerk/Treasurer shall refer one copy to the County Planning Department and one copy to the Rural Water District with a request for their recommendations to be submitted to the Planning Commission. The Planning Commission shall not take action on the plat prior to receiving the recommendations of the County Planning Department and Rural Water District. If no recommendation is received by the Planning Commission within 30 days, the plat shall be deemed approved by the County Planning Department and Rural Water District.

(Ord. 1997-7.1, § 3, passed 7-14-1997, Am. Ord. 2007-1.1, § 4, passed 1-8-2007) Penalty, See § 151.999

§ 151.030 SUBMISSION TO THE SCHOOL BOARD AND RURAL FIRE DISTRICT.

Prior to any approval on the preliminary or final plats by the Planning Commission and Board of Trustees, a copy of each preliminary or final plat shall be submitted to the School Board and Rural Fire District for their consideration and recommendations. The School Board and the Rural Fire District shall within 30 days recommend in writing to the Board of Trustees that the plat be approved or disapproved in whole or in part or with the changes as may be desirable. This recommendation shall be advisory, and failure of the Board of Education or the Rural Fire District to make written recommendation within 30 days shall be construed as an approval of the proposal submitted.

(Ord. 1997-7.1, § 3, passed 7-14-1997, Am. Ord. 2007-1.1, § 5, passed 1-8-2007) Penalty, See § 151.999

§ 151.031 REFERRED TO VILLAGE ENGINEER; ADDITIONAL PROFESSIONAL ASSISTANCE.

The Village Clerk/Treasurer shall submit one (1) copy of all preliminary and final plats to the Village Engineer for review and comment prior to review and recommendation by the Planning Commission. The Board of Trustees or the Planning Commission may request such additional professional assistance as deemed necessary to properly evaluate the plats submitted.

(Ord. 1997-7.1, § 3, passed 7-14-1997, Am. Ord. 2007-1.1, § 6, passed 1-8-2007)

Subdivision Regulations

PLAT SPECIFICATIONS

§ 151.045 PRELIMINARY PLAT.

The preliminary plat shall be drawn to a scale of not to exceed 1 inch equal to 100 feet, shall be plainly marked "Preliminary Plat," and shall include, show, or be accompanied by the following information:

(A) A location map showing the subdivision name, an outline of the area to be subdivided, the existing streets and town utilities on adjoining property, and the north point and scale;

(B) The proposed name of the subdivision which must not be so similar to that of an existing subdivision as to cause confusion;

(C) The names and addresses of the owner and subdivider, and the engineer, surveyor, or landscape architect responsible for the survey or design;

(D) The legal description of the area being platted;

(E) The boundary line (accurate in scale), dimensions, and location of the property to be platted, and the location of monuments found or set, section lines, contours with the intervals of 5 feet or less; and, the approximate acreage of the property to be platted;

(F) A date, scale and north point, and a key map showing the general location of the proposed subdivision in relation to surrounding developments;

(G) Location of property lines and the width and location of platted streets or alleys within or adjacent to the property; physical features of the property, including location of water courses, ravines, bridges, culverts, present structures, and other features affecting the subdivision; and the location of all existing utilities with their sizes indicated. The outline of wooded areas or the location of important individual trees may be required;

(H) The layout or location, numbers or names, and approximate dimensions or widths of all proposed lots; of all building setback lines and easements; and all of streets, alleys, and grounds proposed to be dedicated for public use;

(I) The location and width of proposed streets, roads, lots, alleys, sanitary and storm sewers, water mains, and other features and improvements required by this chapter, and their relation to streets and alleys in adjacent subdivisions. If there are no adjacent subdivisions, then the key map shall show the location and distance to the nearest subdivision, and how the streets, alleys, or highways in the subdivision offered for approval may connect with those in the nearest subdivision;

(J) The existing zoning classification and proposed uses of land within the proposed subdivision shall also be designated; and

Bennet – Land Usage

(K) Written and signed statements explaining how and when the subdivider proposes to provide and install all required sewers or other disposal of sanitary wastes, pavement, sidewalks, drainage structures, and other required improvements.

(Ord. 1997-7.1, § 3, passed 7-14-1997, Am. Ord. 2007-1.1, § 7, passed 1-8-2007) Penalty, See § 151.999

§ 151.046 FINAL PLAT.

(A) The final plat shall be legibly drawn at a scale of not to exceed 1 inch equal to 100 feet.

(B) The final plat shall include, show, or be accompanied by the following information:

- (1) The title under which the subdivision is to be recorded;
- (2) The name or names of the owners and subdividers;
- (3) A date, scale and north point, basis of bearings, and a key map showing the general location of the proposed subdivision;
- (4) The legal description of the area being platted in metes and bounds, by bearing and distance;
- (5) Accurate distances and bearings of all boundary block and lot lines of the subdivision including all sections and U.S. Survey and Congressional township lines;
- (6) Center lines of all proposed and adjoining streets with their right-of-way width and names;
- (7) Lines of all blocks and lots with systematic method of numbering to identify all lots and blocks;
- (8) All building setback lines and all easements provided for public service, together with their dimensions and any limitations of the easements;
- (9) Any and all dimensions necessary for accurate location of the boundaries of the site to be developed and of all streets, alleys, lots, easements, and dedicated areas. These dimensions shall be expressed in feet and decimals;
- (10) All radii, points of tangency, central angles, and lengths of curves;
- (11) All survey monuments and benchmarks, found or set, together with their physical description;

Subdivision Regulations

(12) Certification by a surveyor or engineer to the effect that the final plat represents a survey made by him or her, that the monuments shown, found, or set are in the positions indicated, and that all necessary information is correctly shown thereon;

(13) The accurate outline, dimensions, and purposes of all property which is offered for dedication or is to be reserved for acquisition for public use, or is to be reserved by deed or covenant for the common use of the property owners in the subdivisions;

(14) An affidavit of ownership showing fee simple title and encumbrances and liens, and a certificate of dedication of all land intended for public use, signed by the owner or owners and all other properties who have a mortgage or lien interest in the property;

(15) Construction drawings, profiles, cross-sections, and specifications subject to certification and approval of the Village Engineer; and

(16) Signature spaces for approval of the Commission Chairperson and Secretary and also the Village Engineer and authorized representative of the Board of Trustees.

(Ord. 1997-7.1, § 3, passed 7-14-1997, Am. Ord. 2007-1.1, § 8 passed 1-8-2007) Penalty, See § 151.999

DESIGN STANDARDS

§ 151.060 CONFORMANCE TO THE COMPREHENSIVE PLAN.

(A) In subdividing property, consideration shall be given to suitable sites for schools, parks, playgrounds, and other common areas for public use so as to best conform with any recommendations of Chapter 153.

(B) Any provisions for schools, parks, and playgrounds should be indicated on the preliminary plat in order that it may be determined when and in what manner the areas will be provided or acquired by an appropriate agency.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.061 CONFORMANCE TO THE STREET PLAN.

Unless otherwise approved by the Planning Commission and Board of Trustees, provision must be made for the extension of major and collector streets as shown on the street plan of the village and local streets must provide free circulation within the subdivision.

Bennet – Land Usage

(A) The system of streets designated for the subdivision, except in unusual cases, must align with streets already dedicated in adjacent subdivisions, and where no adjacent connections are platted, must in general be the reasonable projection of streets in the nearest subdivisions, and must be continued to the boundaries of the tract subdivided, so that other subdivisions may connect therewith.

(B) Rights-of-way providing for the future opening and extension of the streets as outlined herein may, at the discretion of the Commission, be made a requirement of the plat.

(C) Off-center street intersections will not be approved except in unusual cases.

(D) In general, streets shall be of a width at least as great as that of the streets they connect to so that they continue existing or projected streets.

(E) Local streets shall be arranged so as to discourage through traffic.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.062 STREET CLASSIFICATION TABLE.

Unless modified elsewhere in these regulations, the minimum right-of-way widths, pavement widths (back to back of curb), and grades for interior streets and alleys included in any subdivision shall conform to the minimum design standards established by the Board of Classifications and Standards, Nebraska Department of Roads.

<i>Classification</i>	<i>Right-of-Way (Minimum Feet)</i>	<i>Pavement Width (Minimum Feet)</i>	<i>Maximum Grade (%)</i>
Thoroughfare street or highway	100	45	6
Collector streets	80	39	8
Residential streets	60	25	10
Minor residential streets/frontage	50	25	-
Residential alleys	20	20	-
Commercial or industrial alleys	20	16	-

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.063 CUL-DE-SACS; DEAD-END STREETS.

No dedication of a half-street will be permitted unless by special approval of the Board of Trustees. If the special approval is granted, the dedicated half-street shall not be less than 33 feet in width and whenever subdivided property adjoins a half-street, the remainder of the street shall be dedicated. No dead-end streets shall be approved unless the streets are provided to connect with future streets in adjacent land and are dedicated to the village. Cul-de-sacs may be permitted where the form or contour of the land makes it difficult to plat with connected streets. Cul-de-sacs shall provide proper

Subdivision Regulations

access to all lots, shall not exceed 500 feet in length, and shall be terminated with a turn-around having a minimum right-of-way of 110 feet.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.064 INTERSECTIONS AND JOGS.

Street intersections shall be nearly at right angles as possible, and no intersection shall be at an angle less than 80 degrees or greater than 100 degrees. The intersecting right-of-way lines at all street intersections shall be rounded by a minimum radius of 20 feet, unless a greater radius is required by the Board of Trustees. Detailed designs of intersections may be required. Street jogs with center line offsets of 125 feet or less shall not be permitted. Intersections of more than 2 streets at a point shall not be permitted.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.065 ALLEYS.

Alleys shall be discouraged in residential districts but shall be provided in commercial and industrial districts or to avoid dead ends where existing alleys have been platted.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.066 LOT ACCESS.

Every lot within a subdivision shall front on and have access to a publicly dedicated street, unless otherwise provided for in these regulations.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.067 BLOCKS.

(A) Residential blocks shall not be less than 264 feet nor more than 1,000 feet in length, except as the Board of Trustees considers necessary to secure efficient use of land or to achieve desired features of the street system.

(B) Where deemed essential for circulation or access to schools, playgrounds, shopping centers, or other community facilities, the Board of Trustees may require public crosswalks at locations other than the intersections.

(C) The crosswalks shall have a minimum easement width of 10 feet.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

Bennet – Land Usage

§ 151.068 MINIMUM LOT DIMENSIONS.

Lot dimensions and area for lots served by a public sewer shall conform to the requirements of Chapter 152. Lots not served by public sewer shall not be less than 60 feet in width nor less than 100 feet in depth, nor less than 20,000 square feet in area.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.069 EASEMENTS.

Where there are no streets or alleys, the village may require that easements of at least 6 feet in width shall be provided on each side of all rear lot lines and along side lot lines where necessary for poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains, or other utilities.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.070 LOCATION OF WATER AND SEWER.

Water and sewer lines shall be constructed so as to maintain a horizontal space of not less than 10 feet.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.071 PUBLIC SITES AND OPEN SPACES.

Where a proposed park, playground, school, or other public use is located in whole or in part in a subdivision, the Planning Commission may require the dedication or reservation of the area with the subdivision in those cases in which the Planning Commission deems the requirements to be reasonable.

(Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.072 PROVISIONS FOR LARGE PARCELS.

If a proposed subdivision contains a parcel or parcels larger than the minimum required lot size of the zoning district, the parcels shall be arranged to permit continued development and the preliminary plat shall show a future street plan, utility system, and logical resubdivision.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.073 OUTLOTS; MAINTENANCE; ASSOCIATION.

Where the subdivision contains sewers, sewage treatment plants, water supply systems, park areas, street trees, roadways, street lighting, recreational facilities, storm water drainage, and storage facilities, or other physical facilities (“private improvements”) on outlots which are necessary or desirable for the welfare of the area and which are of common use or benefit and which the village does

Subdivision Regulations

not maintain, the Subdivider shall be responsible for the proper maintenance and supervision of the outlots and private improvements on a permanent and continuous basis and shall retain ownership of or the right of entry to the outlots in order to maintain the outlots and private improvements on said permanent and continuous basis. However, the Subdivider may be relieved and discharged of this maintenance obligation upon creating, in writing, a permanent and continuous association of property owners that will be responsible for said maintenance obligation. All such maintenance agreements shall be incorporated in covenants running with title to the subdivided property, and the documents creating the association and the restrictive covenants must be reviewed and approved by the Village Attorney and filed of record with the Register of Deeds. Notwithstanding the above, the Subdivider shall not be relieved of this maintenance obligation for each specific private improvement until the registered professional engineer or nurseryman who supervised installation of said private improvement has certified to the village that the improvement(s) has been installed in accordance with the approved plans and applicable standards.

(Ord. 2007-1.1, § 9, passed 1-8-2007)

§ 151.074 IMPROVEMENT OF PARKING AREAS; PARKING RESTRICTION; SCREENING.

All open parking areas shall be at a maximum of 9 feet x 20 feet, shall be ready for use upon occupying a building and shall be surfaced with a permanent, bituminous or concrete pavement meeting the standards of the specifications of the village within 6 months following the completion of the building. Ingress and egress shall be by means of paved driveways not exceeding 28 feet in width. Angle parking not exceeding 60 degrees may be permitted by approval of the Village Board from a public right-of-way under the terms and conditions granted by the permit. No other head-in parking from any public right-of-way shall be permitted. No parking spaces shall be located within 6 feet of an adjoining lot. Any lights used to illuminate the parking area shall be so arranged as to direct light away from any adjacent premises in a residential district. When such parking area is located in or adjacent to a residential zone, the following additional regulations shall apply:

(A) No sign shall be permitted thereon except those necessary for the orderly parking thereon.

(B) The Village Board may require any parking area to be screened by a wall, screen planting, or fence of a height that the Board deems adequate on any side where the parking area may adversely affect the adjacent property.

The Village Board in specific cases may require that any screen planting, fence, or wall around a parking lot shall be set back from a street if such setback will prevent adverse effects upon the appropriate use of adjacent property, or will prevent a traffic hazard; provided, that such setback need not be greater than the respective front or side yard requirements in that district.

(Ord. 2007-1.1, § 10, passed 1-8-2007)

Bennet – Land Usage

SUBDIVISION IMPROVEMENTS

§ 151.085 MONUMENTS.

Monuments shall be placed at all block corners, angle points, points of curves in streets, lot corners, and at the intermediate points as shall be required by the Board of Trustees.
(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.086 WATER LINES.

Where a public water main is reasonably accessible, the subdivision shall be connected to the water main and a water connection shall be provided for each lot and fire hydrants as approved by the Board of Trustees; provided, however, where the proposed subdivision is not within the corporate limits of the Village and is not being annexed, and when all proposed lots are three acres or more in area, individual water well systems or a community water system shall be installed in such a manner that an adequate supply of potable water is available to every lot within the subdivision.
(Ord. 1997-7.1, § 3, passed 7-14-1997; Am. Ord. 2008-5.1, § 1, passed 8-11-2008) Penalty, See § 151.999

§ 151.087 SANITARY LINES.

(A) The subdivider shall provide the subdivision with a complete sewer system which shall connect with a sanitary sewer outlet approved by the Board of Trustees.

(B) The sewers shall extend to the subdivision boundaries as necessary to provide for the extension of the sewers by adjacent property.

(C) Where the proposed subdivision is not within the corporate limits of the Village and is not being annexed, and when all proposed lots are three acres or more in area, on site wastewater treatment systems or community wastewater works shall be permitted if such systems are in conformance with all applicable requirements of Lancaster County and the state of Nebraska and proper permits have been received therefor.
(Ord. 1997-7.1, § 3, passed 7-14-1997; Am. Ord. 2008-5.1, § 2, passed 8-11-2008) Penalty, See § 151.999

§ 151.088 STORM DRAINS.

The developer shall provide the subdivision with adequate drains, ditches, culverts, complete bridges, storm sewers, intakes, and manholes, to provide for the collection and the removal of all

Subdivision Regulations

surface waters, and these improvements shall extend to the boundaries of the subdivision so as to provide for extension by adjoining properties.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.089 SIDEWALKS.

A 4 foot wide concrete sidewalk shall be provided adjacent to each lot frontage; provided, however, sidewalks shall not be required in a subdivision located outside of the corporate limits of the Village and not being annexed, when all proposed lots are three acres or more in area.

(Ord. 1997-7.1, § 3, passed 7-14-1997; Am. Ord. 2008-5.1, § 3, passed 8-11-2008) Penalty, See § 151.999

§ 151.090 GRADING.

All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Board of Trustees.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.091 CURB AND GUTTER.

Curb and gutter shall be installed on all roadways in the plat being dedicated for public use and shall be constructed of portland cement concrete in accordance with designs and specifications approved by the Board of Trustees and at grades established by the Board of Trustees; except that curbs and gutters shall not be required if the plat is not within the corporate limits of the Village and is not being annexed, and when all proposed lots are three acres or more in area.

(Ord. 1997-7.1, § 3, passed 7-14-1997; Am. Ord. 2008-5.1, § 4, passed 8-11-2008) Penalty, See § 151.999

§ 151.092 SURFACING.

(A) All roadways being dedicated for public use shall be surfaced from curb to curb.

(B) Surfacing shall be portland cement concrete and shall be constructed in accordance with designs and specifications approved by the Board of Trustees at grades established by the Board of Trustees; provided, however, if not within the corporate limits of the Village and if not being annexed, and when all proposed lots are three acres or more in area, roadways may be surfaced with crushed rock or its equivalent or surfaced with asphaltic material or portland cement concrete.

(Ord. 1997-7.1, § 3, passed 7-14-1997; Am. Ord. 2007-1.1, § 11, passed 1-8-2007; Am. Ord. 2008-5.1, § 5, passed 8-11-2008) Penalty, See § 151.999

Bennet – Land Usage

§ 151.093 SPECIFICATIONS.

The type of construction, the materials, the methods, and standards of subdivision improvements shall be equal to the current specifications of the village for like work. Plans and specifications shall be submitted to the Board of Trustees for approval prior to construction and construction shall not be started until the plans and specifications have been approved.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.094 OTHER IMPROVEMENTS.

The Board of Trustees, upon recommendation of the Planning Commission, may require the installation of street lights, street signs, and street trees.

(Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.095 VILLAGE CONTROL.

No public improvements over which the Board of Trustees has control shall be made with village funds, nor shall any village funds be expended for street maintenance, street improvements, or other services in any area that has been subdivided after the date of the adoption of these regulations unless the subdivision and streets have been approved in accordance with the provisions of these regulations and the street accepted by the Board of Trustees is a public street. The subdivider shall construct and install the improvements described in §§ 151.085 *et seq.* in accordance with the approved construction plan and specifications of the Board of Trustees and to its satisfaction or, submit a subdivision improvements agreement that provides a detailed construction schedule and specifications along with an escrow or surety bond in an amount to be approved by the Board of Trustees.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

ENFORCEMENT

§ 151.110 STREET PLAN.

(A) (1) After the Board of Trustees shall have adopted a street plan and filed the plan with the Register of Deeds for the County, no building shall be erected on any lot within the planning area which does not conform with the provisions of this chapter or Chapter 153.

(2) Further, a building may not be located within the planning area unless and until the street which will serve as access to the lot is approved by the Board of Trustees as a public street prior to the time of construction.

Subdivision Regulations

(B) Any building erected in violation of this section shall be deemed an unlawful structure and the Inspector or other appropriate official may bring action to enjoin the erection or cause it to be vacated or removed.

(Neb. RS 19-913) (Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.111 FILING.

No map, plan, plat, or replat of any subdivision within the jurisdiction of this chapter shall be considered legally filed with the Register of Deeds for the County unless and until the same shall have been approved by the Board of Trustees.

(Ord. 1997-7.1, § 3, passed 7-14-1997) Penalty, See § 151.999

§ 151.112 FEES.

Before a preliminary plan may be considered by the Board of Trustees, the subdivider shall deposit with the Village Clerk/Treasurer a fee as set by resolution of the Board of Trustees. For the final plat, there shall be a filing fee as set by resolution of the Board of Trustees.

(Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.113 SUBDIVISION TAX; AMOUNT OF TAX; DEPOSIT WITH VILLAGE CLERK/TREASURER.

(A) (1) There is hereby imposed upon every subdivider engaged in the subdivision of any lot, tract, or parcel within the corporate limits of the village an occupation tax in the following amounts:

(a) For subdivisions of residentially zoned property, an occupation tax of \$1,000 for every residential lot within the subdivision as approved by the Village Board; and

(b) For subdivisions of commercially or industrially zoned property, an occupation tax of \$4,000 per acre for every acre or portion thereof contained within the subdivision as approved by the Village Board.

(2) In the event of a mixed-use development containing both residentially zoned and commercially or industrially zoned property, the tax under subsection (a) shall apply to the residential lots so created, with the remainder of the subdivision being subject to the occupation tax imposed under subsection (b).

(B) The occupation tax imposed under division (A) shall not apply to:

(1) Any subdivision of agriculturally zoned property, the use of which will continue as agricultural;

Bennet – Land Usage

(2) Any subdivision involving only the adjustment of lot lines between existing lots; and

(3) Any lot created by a subdivision upon which there is existing, at the time of subdivision, an occupied main building that the owner is not intending to demolish. For purposes of a commercial or industrial subdivision, the occupation tax upon such subdivision shall be reduced by the amount of acreage contained within the lot upon which such occupied main building is situated.

(C) (1) Every subdivider shall deposit an amount equal to the anticipated occupation tax with the Village Clerk/Treasurer at the time of submittal of the final plat of any subdivision. If the final plat of the subdivision is not approved by the Village Board, the amount so deposited shall be refunded to the subdivider; otherwise, the tax shall, upon approval of the final plat by the Village Board, be deposited in a separate and special fund to be used only to defray the cost of installation of municipal infrastructure including, but not limited to, sewer improvements, water improvements, roads, and park improvements within the village as determined by the Village Board.

(2) In the event that the number of lots or acres contained within the final plat as approved by the Village Board varies from the number of lots or acres within the final plat at the time of submittal, an appropriate adjustment to the tax shall be made, with either a refund being made to the subdivider of the excess of the amount deposited or an additional payment made by the subdivider, as the case may be. In the event that an additional payment is required from the subdivider, the final plat shall not be filed with the Register of Deeds unless and until such additional amount is paid to the Village Clerk/Treasurer.

(Ord. 2004-10.1, passed 11-15-2004)

AMENDMENTS

§ 151.125 AMENDMENTS.

Any provisions of this chapter from time to time may be amended, supplemented, changed, modified, or repealed by the Village Board according to law; provided, however, that the amendments, supplements, changes, modifications, or repealed provisions shall not become effective until after study and report by the Planning Commission.

(Ord. 1997-7.1, § 3, passed 7-14-1997)

§ 151.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

Subdivision Regulations

(B) Whoever being the owner or agent of the owner of the land located within the platting jurisdiction of the village knowingly or with intent to defraud, transfers, sells, agrees to sell, or negotiates to sell the land by reference to, exhibition of, or by other use of a subdivision of the land, before the plat has been approved by the Board of Trustees and recorded in the office of the Register of Deeds of the County, shall forfeit and pay a penalty of not more than \$100 dollars for each lot so transferred, sold, agreed, or negotiated to be sold. The description by metes and bounds in the instrument or transfer or other document used in the process of selling or transferring shall not exempt the transaction from the penalties.

(Neb. RS 17-426) (Ord. 1997-7.1, § 3, passed 7-14-1997)

Bennet – Land Usage

CHAPTER 152: ZONING CODE

Sections:

General Provisions; Nonconforming Uses

152.001	Purpose
152.002	Jurisdiction
152.003	Interpretation
152.004	Conflict
152.005	Regulations Application; Use
152.006	Nonconforming Lots of Record
152.007	Nonconforming Structures
152.008	Nonconforming Uses
152.009	Repairs and Maintenance
152.010	Special Permit Uses not Nonconforming Uses
152.011	Publication

Terms

152.025	Interpretation
152.026	Definitions
152.026-1	Accessory Use or Structure
152.026-2	Agriculture
152.026-3	Alley
152.026-4	Alteration, Structural
152.026-5	Apartment
152.026-6	Apartment House
152.026-7	Automobile; Junk, Inoperable, or Unlicensed
152.026-8	Automobile Storage Yard
152.026-9	Basement
152.026-10	Bed and Breakfast
152.026-11	Block
152.026-12	Block Front
152.026-13	Boarding House
152.026-14	Buffer, Landscaping
152.026-15	Buildable Area
152.026-16	Building
152.026-17	Building Height
152.026-18	Drive-In Restaurant
152.026-19	Dwelling
152.026-20	Dwelling, Multiple
152.026-21	Dwelling, Single, Family

Bennet – Land Usage

152.026-22	Dwelling, 2-Family
152.026-23	Dwelling, Multi-Family
152.026-24	Dwelling Unit
152.026-25	Family
152.026-26	Farm
152.026-27	Feed Lot, Commercial
152.026-28	Filling Station
152.026-29	Frontage
152.026-30	Garage, Private
152.026-31	Garage, Storage
152.026-32	Grade
152.026-33	Home Occupation
152.026-34	Hotel
152.026-35	Institution
152.026-36	Junk Yard
152.026-37	Kennel
152.026-38	Loading Space, Off-Street
152.026-39	Lot
152.026-40	Lot, Corner
152.026-41	Lot, Depth
152.026-42	Lot, Double Frontage
152.026-43	Lot, Interior
152.026-44	Lot of Record
152.026-45	Lot, Width
152.026-46	Manufactured Home
152.026-47	Mobile Home
152.026-48	Mobile Home Park
152.026-49	Modular Home
152.026-50	Nonconforming Use
152.026-51	Nursing Home
152.026-52	Parking Lot
152.026-53	Parking Space
152.026-54	Screen
152.026-55	Self Storage Units
152.026-56	Service Building
152.026-57	Sign
152.026-58	Story
152.026-59	Story, Half
152.026-60	Street
152.026-61	Street Line
152.026-62	Structural Alteration
152.026-63	Structure
152.026-64	Swimming Pool
152.026-65	Townhouse
152.026-66	Trailer

Zoning Code

152.026-67	Trailer Court
152.026-68	Trailer Space
152.026-69	Transmitting Tower
152.026-70	Variance
152.026-71	Yard
152.026-72	Yard, Front
152.026-73	Yard, Rear
152.026-74	Yard, Side
152.026-75	Zoning Administrator

Districts

152.040	Districts; Uses
152.041	Districts; Boundaries
152.042	District Boundaries; Interpretation
152.043	Zoning Use Chart
152.044	Agricultural District (A-1)
152.044.5	Rural Residential District (A-2)
152.045	Single Family Residential District (R-1)
152.046	Medium Density Residential District (R-2)
152.047	Maximum Density Residential District (R-3)
152.048	Local Business District (B-1)
152.049	Central Business District (B-2)
152.050	Light Industrial District (I-1)
152.051	Heavy Industrial District (I-2)
152.053	Flood Hazard District (F)

Application of Regulations

152.065	Mobile Home Parks
152.066	Lot of Record
152.067	Setbacks
152.068	Side Yard
152.069	Rear Yard Depth
152.070	Projections
152.071	Corner Lots
152.072	Height Limitations
152.073	Off-Street Parking Requirements
152.074	Swimming Pools
152.075	Recreational Vehicles, Trailers, or Equipment
152.076	Fences
152.077	Lighting in Commercial Areas

Bennet – Land Usage

Special Uses Permits

152.090	General Provisions
152.091	Application for Special Use Permits
152.092	Issuance of Special Use Permits
152.093	Standards
152.094	Small Wind Energy Systems

Board of Adjustment

152.105	Members, Terms, and Meetings
152.106	Appeals to Board; Record of Appeal; Hearings and Stays
152.107	Powers and Jurisdiction on Appeal
152.108	Appeals to District Court

Amending the Zoning Code

152.120	Generally
152.121	Fees
152.122	Annexation of Territory; Change of Zoning

Enforcement

152.135	Responsibility
152.136	Zoning Certificate
152.137	Building Permit
152.999	Penalty

GENERAL PROVISIONS; NONCONFORMING USES

§ 152.001 PURPOSE.

The regulations for the zoning districts as set forth in this chapter are made in accordance with a comprehensive plan for the purpose of setting minimum standards to promote the public health, safety, morals, convenience, order, prosperity, and general welfare of the community. They are designed to lessen congestion in the streets; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. They are made with responsible consideration, among other things, as to the character of each district and its peculiar suitability for particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality.

(Neb. RS 19-901) (Ord. 1997-7.1, § 2, passed 7-14-1997)

Zoning Code

§ 152.002 JURISDICTION.

The provisions of this chapter shall apply within the corporate limits of the municipality and within the territory beyond the corporate limits as now or hereafter fixed, for a distance of 1 mile in all directions, as established on the 2 maps entitled "The Official Zoning Map of the Village of Bennet, Nebraska," as the same may be amended by subsequent annexation. The maps and amendments thereto and all explanatory matter thereof accompany and are hereby made a part of this Chapter. The maps shall be on file in the office of the Register of Deeds, and a certified copy thereof shall be furnished to the Village Clerk/Treasurer.

(Neb. RS 17-1001) (Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.003 INTERPRETATION.

In interpreting and applying these regulations, they shall be held to be minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare.

(Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.004 CONFLICT.

Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in Chapter 151, Chapter 150, or other official regulations or ordinances, the most restrictive shall apply.

(Neb. RS 19-914) (Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.005 REGULATIONS APPLICATION; USE.

(A) No building or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, moved, or structurally altered except in conformity with the regulations of this chapter, or amendments thereto, for the district in which it is located.

(B) No part of a yard or other open space required in connection with any building or structure for the purpose of complying with the provisions of this Chapter shall be included as a part of a yard or other open space similarly required for another building or structure.

(C) No building or use of land for other than agricultural purposes shall be established on a lot that does not abut a public street.

(Neb. RS 19-902, 19-904.01) (Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

Bennet – Land Usage

§ 152.006 NONCONFORMING LOTS OF RECORD.

In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though the lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that the yard dimensions and other requirements of the lot not involving area or width, or both shall conform to the regulations for the district in which the lot is located; that the lot of record was owned at a time when the creation of a lot of the size and width at the location would have been lawful. Nothing herein shall be construed as prohibiting building on a lot of record. Variance of area, width, and yard requirements shall be obtained only through action of the Board of Adjustment.
(Ord. 2003-10.1, passed 10-20-2003)

§ 152.007 NONCONFORMING STRUCTURES.

(A) *Authority to continue.* Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.

(B) *Enlargement, repair, alterations.* Any structure described in division (A) above may be enlarged, maintained, repaired, or remodeled, provided, however, that no enlargement, maintenance, repair, or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of the structure, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, and unless otherwise permitted by special permit unless otherwise approved or as specified in the R-1 District.

(C) *Damage or destruction.* In the event that any structure described in division (A) above is damaged or destroyed, by any means, to the extent of more than 50% of its structural value, the structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in § 152.006 shall not have a side yard of less than 5 feet. When a structure is damaged to the extent of 50% or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within 1 year after the date of the partial destruction and is diligently pursued to completion within one year after issuance of the building permit.

(D) *Moving.* No structure shall be moved in whole or in part for any distance whatever to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.
(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

Zoning Code

§ 152.008 NONCONFORMING USES.

(A) *Nonconforming uses of land.* Where at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, the use may be continued so long as it remains otherwise lawful, subject to the following provisions.

(1) No nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

(2) No nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by the use at the effective date of adoption or amendment of this chapter.

(3) If any nonconforming use of land ceases for any reason for a period of more than 12 months, any subsequent use of the land shall conform to the regulations specified by this chapter for the district in which the land is located.

(B) *Nonconforming uses of structures.* If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of this chapter the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions.

(1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to use permitted in the district in which it is located.

(2) Any nonconforming use may be extended throughout many parts of a building which were manifestly arranged or designed for the use at the time of adoption or amendment of this chapter but no use shall be extended to occupy any land outside the building.

(3) If no structural alterations are made, any nonconforming use of a structure or structure and premises may be changed to another nonconforming use provided that the Board of Adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting the change, the Board of Adjustment may require appropriate conditions and safeguard in accord with the provisions of this chapter.

(4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which the structure is located and the nonconforming use may not thereafter be resumed.

(5) When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for 12 months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.

Bennet – Land Usage

(6) Where nonconforming use status applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

§ 152.009 REPAIRS AND MAINTENANCE.

(A) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this chapter shall not be increased.

(B) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of the official.

(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

§ 152.010 SPECIAL PERMIT USES NOT NONCONFORMING USES.

Any use for which a special permit is issued as provided in this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in the district.

(Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.011 PUBLICATION.

The Village Clerk/Treasurer shall cause the Village of Bennet's zoning regulations to be published in pamphlet form and shall, together with the Chairpersons of the Bennet Planning Commission and Board of Trustees, certify to the adoption of each and include the certification in the published plan or regulations. The Village Clerk/Treasurer shall also cause "The Official Zoning Map of the Village of Bennet, Nebraska," to be duly certified and recorded according to § 152.002 and shall keep a certified copy of the zoning map on file in the Village Office and made available for public inspection during regular office hours.

(Ord. 1997-7.1, § 4, passed 7-14-1997)

Zoning Code

TERMS

§ 152.025 INTERPRETATION.

For the purpose of interpreting this chapter, certain terms are herein defined. Except as defined herein, all other words used in this chapter shall have their customary dictionary meanings. Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular. The word “shall” is always mandatory. The word “lot” includes the word “plot” or “parcel.” The word “building” includes the word “structure.” The word “used” or “occupied,” as applied to any land or buildings, shall be construed to include the words “intended, arranged, or designed to be used or occupied.” The word “Maps” or “Zoning Maps,” “Bennet Zoning Maps,” or “Official Zoning Maps of Bennet,” shall mean the “Official Zoning Maps of the Village of Bennet, Nebraska,” and the area comprising its 1 mile extraterritorial zoning jurisdiction. (Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.026 DEFINITIONS.

For the purpose of this chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word “structure” shall include the word “building” and the word “shall” is mandatory. (Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 1, passed 10-10-2011)

§ 152.026-1 *ACCESSORY USE OR STRUCTURE.*

A subordinate structure or use that customarily is incidental to that of the main or principal building or use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, detached garages, garden houses, antenna/satellite dishes, amateur radio towers not exceeding the height limit of the district and residential, agricultural and recreational storage sheds. Garages or other accessory uses attached to the principal structure shall be considered a part thereof and meet the requirements of the principal structure. (Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 2, passed 10-10-2011)

§ 152.026-2 *AGRICULTURE.*

The planting, cultivating, harvesting, and storage of grains, hay, or plants, commonly grown in the vicinity; the raising and feeding of livestock and poultry if incidental or supplemental to the raising of crops. (Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 3, passed 10-10-2011)

Bennet – Land Usage

§ 152.026-3 *ALLEY.*

A public thoroughfare less than 25 feet in width which affords only a secondary means of access to property abutting thereon.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 4, passed 10-10-2011)

§ 152.026-4 *ALTERATION, STRUCTURAL.*

Any change in the supporting members of a building such as bearing walls, columns, beams, or girders.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 5, passed 10-10-2011)

§ 152.026-5 *APARTMENT.*

A part of a building consisting of a room or rooms intended, designed, or used as a residence for 3 or more families or households; also known as multi-family residence.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 6, passed 10-10-2011)

§ 152.026-6 *APARTMENT HOUSE.*

A building arranged, intended, or designed to be occupied by 3 or more families living independently of each other.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 7, passed 10-10-2011)

§ 152.026-7 *AUTOMOBILE; JUNK, INOPERABLE, OR UNLICENSED.*

A vehicle not kept in a building or fully screened enclosed area which due to condition, mechanical defect, or state of repair, is unable to move under its own power or does not have a current Nebraska license.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 8, passed 10-10-2011)

Zoning Code

§ 152.026-8 AUTOMOBILE STORAGE YARD.

An enclosed or fenced in area that is visually screened from adjacent properties used for storing junk, inoperable, or unlicensed vehicles. Storage yards shall not be operated for salvage or resale of parts.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 9, passed 10-10-2011)

§ 152.026-9 BASEMENT.

A story having part of its height below grade. A **BASEMENT** is counted as a story for height regulations if subdivided and used for dwelling purposes.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 10, passed 10-10-2011)

§ 152.026-10 BED AND BREAKFAST.

A limited commercial activity, conducted within a structure, which includes dining and bathroom facilities with sleeping rooms for short-term guest lodging.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 11, passed 10-10-2011)

§ 152.026-11 BLOCK.

A piece or parcel of land entirely surrounded by public highways, streets, streams, railroad rights-of-way, parks, or a combination thereof. There may be more than 1 numbered block as shown on a plat, falling within a single block as herein defined.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 12, passed 10-10-2011)

§ 152.026-12 BLOCK FRONT.

All of the property on 1 side of a street between 2 intersecting streets.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 13, passed 10-10-2011)

§ 152.026-13 BOARDING HOUSE.

A residential establishment other than a hotel or motel where at least 3 and not more than 10 sleeping and eating accommodations are offered to the public for compensation for more than 1 week.

Bennet – Land Usage

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 14, passed 10-10-2011)

§ 152.026-14 *BUFFER, LANDSCAPE.* See “Screen.”

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 15, passed 10-10-2011)

§ 152.026-15 *BUILDABLE AREA.*

The portion of a lot remaining after required yards have been provided.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 16, passed 10-10-2011)

§ 152.026-16 *BUILDING.*

An enclosed structure, anchored to permanent foundation, and having exterior or party walls and a roof, designed for the shelter of persons, animals or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two buildings connected by a breezeway shall be deemed one building.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 17, passed 10-10-2011)

§ 152.026-17 *BUILDING, HEIGHT.*

The vertical distance to the highest point of the roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip, and gambrel roofs, measured from the curb level if the building is not more than 10 feet from the front lot line, or from the grade in all other cases.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 18, passed 10-10-2011)

§ 152.026-18 *DRIVE-IN RESTAURANT.*

Any place or premises used for sale, dispensing, or serving food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 19, passed 10-10-2011)

Zoning Code

§ 152.026-19 *DWELLING.*

Any building or portion thereof which is designed for and used exclusively for residential purposes excluding mobile homes.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 20, passed 10-10-2011)

§ 152.026-20 *DWELLING, MULTIPLE.*

A building designed for or occupied exclusively by more than 2 families.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 21, passed 10-10-2011)

§ 152.026-21 *DWELLING, SINGLE FAMILY.*

A building having accommodations for or occupied exclusively by 1 family, excluding mobile homes but including manufactured homes which meet all of the following standards.

(1) The home shall have no less than 900 square feet of floor area.

(2) The home shall have no less than an 18 foot exterior width.

(3) The roof shall be pitched with a minimum vertical rise of 2 and ½ inches for each 12 inches of horizontal run.

(4) The exterior material shall be of a color, material, and scale comparable with those existing in residential site-build, single-family construction.

(5) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock.

(6) The home shall be placed on a permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed.

(7) The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 22, passed 10-10-2011)

Bennet – Land Usage

§ 152.026-22 *DWELLING, 2-FAMILY.*

A building having 2 dwelling units and also known as a duplex.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 23, passed 10-10-2011)

§ 152.026-23 *DWELLING, MULTI-FAMILY.*

A building used by or designed for 3 or more dwelling units, each independently containing cooking facilities.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 24, passed 10-10-2011)

§ 152.026-24 *DWELLING UNIT.*

A building, or portion thereof, providing complete and permanent living facilities for 1 family.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 25, passed 10-10-2011)

§ 152.026-25 *FAMILY.*

(1) Any number of individuals related by blood, marriage, or adoption, occupying a dwelling unit; or group of unrelated persons occupying a dwelling unit; however, the number of unrelated individuals shall be determined on the basis of 200 square feet of living area per individual.

(2) A family shall under no circumstances be construed as a boarding or rooming house, fraternity or sorority house, club, lodging house, hotel, motel, or commune.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 26, passed 10-10-2011)

§ 152.026-26 *FARM.*

An area which is used for growing of the usual farm products such as vegetables, fruit, and grain, and the storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of the area for 1 or more of the above uses with the necessary accessory uses for treating or storing the produce. The operation of any accessory uses shall be secondary to that of the normal farming activities and the accessory uses do not include the feeding of garbage or offal to swine or other animals.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 27, passed 10-10-2011)

Zoning Code

§ 152.026-27 *FEED LOT, COMMERCIAL.*

The land and the necessary accessory uses for the feeding of livestock where the principal business or industry is the feeding of livestock and the feeding is not subordinate to agriculture on the premises of which the feed lot is a part. Where permitted in this chapter, the density of livestock shall be as follows for the pens exclusive of area used for accessory uses:

- (1) Cattle - 300 square feet of area per head;
- (2) Hogs - 40 square feet of area per head;
- (3) Ostriches/Emus - 80 square feet of area per head;
- (4) Sheep - 40 square feet of area per head; and

- (5) Rabbits/similar animals - 20 square feet of area per head.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 28, passed 10-10-2011)

§ 152.026-28 *FILLING STATION.*

Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, and where in addition the following services may be rendered and sales made, and no other:

- (1) Sale and servicing of spark plugs, batteries, and distributors and distributor parts;
- (2) Tire servicing and repair, but not recapping or regrooving; and/or

(3) Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and similar items.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 29, passed 10-10-2011)

§ 152.026-29 *FRONTAGE.*

All the property on 1 side of a street between 2 intersecting streets (crossing or terminating) measured along the line of the street, or if the street is dead-ended, then all property abutting on 1 side between an intersecting street and the dead end of the street.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 30, passed 10-10-2011)

Bennet – Land Usage

§ 152.026-30 *GARAGE, PRIVATE.*

An accessory building or portion of a main building used for the storage only of motor vehicles owned and used for the occupants of the building to which it is accessory.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 31, passed 10-10-2011)

§ 152.026-31 *GARAGE, STORAGE.*

A building or portion thereof designed or used exclusively for housing 4 or more motor-driven vehicles.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 32, passed 10-10-2011)

§ 152.026-32 *GRADE.*

(1) For buildings having walls adjoining 1 street only, the elevation of the sidewalk at the center of the wall adjoining the street.

(2) For buildings having walls adjoining more than 1 street, the average of the elevations of the sidewalk at the center of all walls adjoining the streets.

(3) For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

(4) Any wall approximately parallel to and not more than 5 feet from a street line is to be considered as adjoining the street.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 33, passed 10-10-2011)

§ 152.026-33 *HOME OCCUPATION.*

A home craft, occupation, or profession which:

(1) Is wholly carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit;

(2) Is carried on by a member or members of the family residing in the dwelling unit;

Zoning Code

- (3) Is clearly incidental and secondary to the use of the dwelling unit for residential purposes;
- (4) Does not employ more than 1 person outside of the immediate family;
- (5) Has no exterior display, no exterior sign except a small, nonilluminated sign of not more than 4 square feet which is attached to the structure, no exterior storage and no other exterior indications of the home occupation or variations from the residential character of the principal building;
- (6) Produces no offensive noise, vibration, smoke, dust, odors, heat, glare, or street congestion; and
- (7) Sells only retail goods produced on the premise or ones incidental to the occupation.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 34, passed 10-10-2011)

§ 152.026-34 *HOTEL.*

A building used as an abiding place of more than 20 persons who are for compensation lodged with or without meals.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 35, passed 10-10-2011)

§ 152.026-35 *INSTITUTION.*

A building occupied by a nonprofit corporation or a nonprofit establishment for public use.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 36, passed 10-10-2011)

§ 152.026-36 *JUNK YARD.*

A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage of used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged material as part of manufacturing operations.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2 § 1, passed 2-12-2007, Am. Ord. 2011-8.1, § 37, passed 10-10-2011)

Bennet – Land Usage

§ 152.026-37 *KENNEL.*

Any lot or premises on which 4 or more dogs or cats or any combination thereof are kept for the purpose of raising, boarding, or training for show or sale.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 38, passed 10-10-2011)

§ 152.026-38 *LOADING SPACE, OFF-STREET.*

Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to the vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 39, passed 10-10-2011)

§ 152.026-39 *LOT.*

A parcel of land defined by metes and bounds, or boundary lines in a recorded deed, fronting on a street. In determining lot area on boundary lines, no part thereof within the limits of the street shall be included.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 40, passed 10-10-2011)

§ 152.026-40 *LOT, CORNER.*

A lot at the junction of and fronting on 2 or more intersecting streets.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 41, passed 10-10-2011)

§ 152.026-41 *LOT, DEPTH.*

The average horizontal distance between front and rear lot lines.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 42, passed 10-10-2011)

Zoning Code

§ 152.026-42 LOT, DOUBLE FRONTAGE.

A lot having a frontage on 2 nonintersecting streets, as distinguished from a corner lot.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 43, passed 10-10-2011)

§ 152.026-43 LOT, INTERIOR.

A lot other than a corner lot.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 44, passed 10-10-2011)

§ 152.026-44 LOT OF RECORD.

A lot which is a part of a plat, a map of which has been recorded in the Office of the County Register of Deeds on or before 7-14-1997; or an irregular tract lot as described by a deed recorded with the County Register of Deeds on or before 7-14-1997.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2003-10.1, passed 10-20-2003; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 45, passed 10-10-2011)

§ 152.026-45 LOT, WIDTH.

The horizontal distance between side lot lines measured at the building line and at right angles to its depth.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 46, passed 10-10-2011)

§ 152.026-46 MANUFACTURED HOME.

A factory-built structure(s) which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 *et seq.*, promulgated by the United States Department of Housing and Urban Development (H.U.D.), or a modular housing unit as defined in Neb. Rev. Stat. § 71-1557 (Reissue 2003) bearing the seal of the Department of Health and Human Service System.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 47, passed 10-10-2011)

Bennet – Land Usage

§ 152.026-47 *MOBILE HOME.*

A transportable structure, designed and built to be towed on its own chassis and more than 18 feet wide and 40 feet in length, that is suitable for use as a single family dwelling, with or without a permanent foundation, when connected to the required utilities. A mobile home may be comprised of one or more units that can be telescoped when towed and expanded later for additional capacity, or two or more units separately towable but designed to be joined as one integral unit. The term “Mobile Home” shall not include prefabricated, modular, or precut dwelling units or those manufactured in sections or parts away from the site and transported to the site for assembly.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 48, passed 10-10-2011)

§ 152.026-48 *MOBILE HOME PARK.*

Any area of land upon which 2 or more mobile homes are parked, connected to utilities and used by 1 or more persons for living or sleeping purposes. A Mobile Home Parked in this area can either be placed on a permanent foundation or supported only by its wheels, jacks, blocks, or skirtings or a combination of these devices. A Mobile Home Park includes any premises set apart for supplying to the public space for parking, either free of charge or for revenue purposes, 1 or more mobile homes, connected to utilities and used by 1 or more persons for living or sleeping purposes and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment or facilities of such Mobile Home Park.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 49, passed 10-10-2011)

§ 152.026-49 *MODULAR HOME.*

Any dwelling whose construction consists entirely of or the major portions of its construction consists of a unit or units not fabricated on the final site for the dwelling units, which units are movable or portable until placed on a permanent foundation and connected to utilities. Every modular home shall bear a label certifying that it was built in accordance with the standards promulgated pursuant to the Nebraska Uniform Standards for Modular Housing Units Act (Neb. Rev. Stat. § 71-1555 *et seq.*).(Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 50, passed 10-10-2011)

§ 152.026-50 *NONCONFORMING USE.*

A use of buildings or land failing to meet all of the requirements of this chapter applicable to the zoning district in which it is located.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 51 passed 10-10-2011)

Zoning Code

§ 152.026-51 *NURSING HOME.*

A home for the aged, chronically ill, or incurable persons in which 3 or more persons not of the immediate family are received, kept, and provided with food, shelter, and care, for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis, treatment, or care of the sick and injured.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 52, passed 10-10-2011)

§ 152.026-52 *PARKING LOT.*

An area consisting of 6 or more parking spaces for the parking of motor vehicles, together with a driveway connecting the parking area with a street or alley and permitting ingress and egress for a motor vehicle, provided that there shall be no storage of motor vehicles for the purpose of sale or resale.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 53, passed 10-10-2011)

§ 152.026-53 *PARKING SPACE.*

A developed area, enclosed or unenclosed, having an area of not less than 180 square feet per automobile, together with a driveway connecting the parking space with a street, road, or alley and permitting ingress of that automobile without the necessity of moving another automobile.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 54, passed 10-10-2011)

§ 152.026-54 *SCREEN.*

A constructed, vegetative, or natural barrier created to reduce visual, sound, or other impacts between uses.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 55, passed 10-10-2011)

§ 152.026-55 *SELF STORAGE UNITS.*

A building containing more than 1 separate unit or space designed to be rented to the general public.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 56, passed 10-10-2011)

Bennet – Land Usage

§ 152.026-56 *SERVICE BUILDING.*

A building housing toilet facilities for men and women, and the other facilities as may be required by this chapter.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 57, passed 10-10-2011)

§ 152.026-57 *SIGN.*

An advertising message, announcement, declaration, demonstration, display, illustration, insignia, surface or space erected or maintained in view of the observer thereof for identification, advertisement or promotion of the interests of any person, entity, product, or service, including the sign structure, supports, lighting system, and any attachments, ornaments, or other features used to draw the attention of observers. Signs placed or erected by governmental agencies or nonprofit civic associations for a public purpose in the public interest shall be included herein. Unless otherwise permitted, no sign or portion thereof shall extend beyond the property line.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 58, passed 10-10-2011)

§ 152.026-58 *STORY.*

The portion of a building, other than a basement, included between a floor and the floor next above it.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 59, passed 10-10-2011)

§ 152.026-59 *STORY, HALF.*

A space under a sloping roof which has the line of intersection of roof decking and wall face not more than 3 feet above the top floor level, and in which space not more than 60% of the floor area is finished off for use.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 60, passed 10-10-2011)

§ 152.026-60 *STREET.*

A right-of-way, dedicated to public use, which affords a primary means of access.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 61, passed 10-10-2011)

Zoning Code

§ 152.026-61 *STREET LINE.*

The right-of-way line of a street.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 62, passed 10-10-2011)

§ 152.026-62 *STRUCTURAL ALTERATION.*

Any addition to or subtraction from any building, including walls, columns, beams, girders, foundations, porches, garages, rooms, doors, and windows.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 63, passed 10-10-2011)

§ 152.026-63 *STRUCTURE.*

Anything constructed or erected, including a building which has permanent foundations on the ground, or anything attached to something having a permanent location on the ground. **STRUCTURE** shall also include any building erected on skids.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 64, passed 10-10-2011)

§ 152.026-64 *SWIMMING POOL.*

Any structure intended for swimming or recreational bathing that contains water over 18 inches deep. This includes in-ground, above-ground, and on-ground **SWIMMING POOLS**, hot tubs, and spas.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 65, passed 10-10-2011)

§ 152.026-65 *TOWNHOUSE.*

One of a group or row of not less than 2 nor more than 6 attached single-family dwellings designed and built as a single structure on adjoining lots facing upon a street, each being separated from the adjoining dwelling or dwellings by a party wall or walls extending from the lowest floor to the roof along the dividing lot line.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 66, passed 10-10-2011)

Bennet – Land Usage

§ 152.026-66 TRAILER.

Any vehicle without motive power, designated for living quarters and for being drawn by a motor vehicle and is suitable for recreational, vacation, or travel purposes and which is not more than 8 feet in width nor more than 32 feet in length including hitch; provided the length shall not apply if the gross weight does not exceed 4,500 pounds.

(1) **SUBTRAILER.** A **TRAILER** which does not have a built-in flush toilet and a bath or shower.

(2) **INDEPENDENT TRAILER.** A **TRAILER** which has a built-in flush toilet and a bath or shower in serviceable condition.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 67, passed 10-10-2011)

§ 152.026-67 TRAILER COURT. See “Mobile Home Park.”

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 68, passed 10-10-2011)

§ 152.026-68 TRAILER SPACE.

A plot of ground within a trailer court designated for the accommodation of 1 trailer or mobile home and reserved for exclusive use of its occupants.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 69, passed 10-10-2011)

§ 152.026-69 TRANSMITTING TOWER.

A transmitting, receiving, or repeating tower or broadcasting station used for, or in conjunction with, communication purposes, including, but not limited to, land mobile towers and cellular communications towers; provided, however, an amateur radio tower not exceeding the height limit of the district in which it is located shall not be considered a transmitting tower and shall be permitted as an accessory use if operated by the occupant of the premises.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007, Am. Ord. 2011-8.1, § 70, passed 10-10-2011)

§ 152.026-70 VARIANCE.

A relaxation of the terms of Chapter 152 where the variance will not be contrary to the public interest and where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of these zoning regulations, or by reason of exceptional

Zoning Code

topographic conditions or other extraordinary and exceptional situation or conditions of the piece of property, the strict application of any enacted regulation under this chapter would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of the property, if the relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 71, passed 10-10-2011)

§ 152.026-71 YARD.

(1) An open space, unoccupied and unobstructed by a structure of any sort from the ground upward and measured as the minimum horizontal distance between the lot line and the main building.

(2) On corner lots, set back shall be based on the interior lot lines being treated as side yards and the lines abutting the streets being treated as front yards. (Figure 2)

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 72, passed 10-10-2011)

§ 152.026-72 YARD, FRONT.

A yard extending across the front of a lot between the side yard lines and measured between the street line and the main building or any projection thereof, other than the ordinary projection of steps, terraces, uncovered porches or entrance ways. (Figure 2)

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 73, passed 10-10-2011)

§ 152.026-73 YARD, REAR.

A yard extending across the rear of the lot between the side lot line and measured between the rear lot line and the rear of the main building or any projections other than steps, uncovered porches, or any entrance ways. On all lots, the **REAR YARD** shall be at the opposite end of the lot from the front yard. (Figure 2)

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 74, passed 10-10-2011)

Bennet – Land Usage

§ 152.026-74 *YARD, SIDE.*

An open, unoccupied space between the closest portion of the building to the side line and the side line of the lot. (Figure 2)

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2011-8.1, § 75, passed 10-10-2011)

§ 152.026-75 *ZONING ADMINISTRATOR.*

The Village Clerk/Treasurer of the Village.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 1, passed 2-12-2007; Am. Ord. 2011-8.1, § 76, passed 10-10-2011)

DISTRICTS

§ 152.040 *DISTRICTS; USES.*

For the purpose of this chapter, the municipality is hereby divided into 10 districts, designated as follows:

- (A) Agricultural District (A-1);
- (B) Rural Residential District (A-2);
- (C) Single Family Residential District (R-1);
- (D) Medium Density Residential District (R-2);
- (E) Maximum Density Residential District (R-3);
- (F) Local Business District (B-1);
- (G) Central Business District (B-2);
- (H) Light Industrial District (I-1);
- (I) Heavy Industrial District (I-2); and
- (J) Flood Hazard District (F).

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2007-1.2, § 2, passed 2-12-2007)

Zoning Code

§ 152.041 DISTRICTS; BOUNDARIES.

The boundaries of the districts are hereby established as shown on the maps entitled “Official Zoning Map of the Village of Bennet, Nebraska.” The maps and all explanatory matter thereon accompany and are hereby made a part of this chapter as if fully written herein. The Official Zoning District Map shall be identified by the signature of the Chairperson of the Board, and attested by the Village Clerk/Treasurer. No changes shall be made on the Zoning District Map except as may be required by amendments to this chapter. The changes shall be promptly indicated on the Zoning District Map with the ordinance number, nature of change, and date of change noted on the map. (Neb. RS 19-904) (Ord. 1997-7.1, § 2, passed 7-14-1997)

[New maps are being adopted herewith.] (Am. Ord. 2007-1.2, § 3, passed 2-12-2007)

§ 152.042 DISTRICT BOUNDARIES; INTERPRETATION.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply.

(A) Where district boundaries are indicated as approximately following the center lines of streets, highways, streams or rivers, street or railroad right-of-way lines or the lines extended, the lines shall be construed to be the boundaries.

(B) Where district boundaries are so indicated that they approximately follow lot lines, the lot lines shall be construed to be the boundaries.

(C) Where district boundaries are so indicated that they are approximately parallel to the center lines of streets, highways, railroads, or reservoirs, the district boundaries shall be construed as being parallel thereto and at the distance therefrom as indicated on the zoning maps. If no distance is given, the dimension shall be determined by use of the scale shown on the zoning maps.

(D) Where a district boundary line divides a lot in single ownership, the district boundary lines shall be determined by the use of the scale or dimensions shown on the zoning maps. (Neb. RS 19-904) (Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.043 ZONING USE CHART.

The Zoning Use Chart provides a quick reference for permitted uses for Districts A-1, A-2, R-1, R-2, R-3, B-1, B-2, and I-1. Uses for District I-2 are given in § 152.051. Permitted uses are indicated by “X” in the appropriate column. Permitted special uses are indicated by “SP” and require the issuance of a special use permit (See §§ 152.090 *et seq.*). Uses designated by “RE” have restrictions which are detailed in the specific district section. Additional uses allowed in a district are detailed in the specific district section.

Bennet – Land Usage

<i>Permitted Use</i>	<i>A-1</i>	<i>A-2</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>B-1</i>	<i>B-2</i>	<i>I-1</i>
Single family dwelling	X	X	X	X	X	-	-	-
2-family dwelling	SP	SP	SP	X	X			
Multi-family dwelling					SP		SP	
Townhouses				SP	SP			
Antique sales						X	X	
Automobile/equipment repair						SP	X	X
Barber shop and beauty parlor						X	X	
Bed and breakfast	SP	SP	SP	SP	SP			
Boarding or lodging house					SP			
Bowling alley						RE	RE	
Business office						X	X	X
Business or commercial school; dance or music academy						X	X	
Carting, express, or storage yard								X
Cemetery or mausoleum	SP	SP	SP	SP	SP	SP	SP	SP
Child care	RE		RE	RE	RE	X	X	
Church, school, or library	X	X	X	X	X	X	X	
Clinic						X	X	
College	SP						X	
Commercial greenhouse or nursery	SP	SP				SP	SP	SP
Contractor's yard								RE
Drive-in restaurant						RE	RE	
Farm implement dealership	SP							X
Filling station	SP					X	X	X
Frozen food locker								X
Golf course	SP	SP	SP					
Grain elevator								SP
Landing field or strip for aircraft	SP	SP						
Laundry and dry cleaning establishment						X	X	X
Livestock sales	SP	SP						
Lumber yard								X
Mobile Home Park					SP			
Motel or hotel						X	X	
Nursing home	X		X	X	X			
Printing shop						X	X	
Private club (not operated for profit)	X	X				SP	X	
Professional office						X	X	X
Public building			X	X	X	X	X	

Zoning Code

<i>Permitted Use</i>	<i>A-1</i>	<i>A-2</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>B-1</i>	<i>B-2</i>	<i>I-1</i>
Public park, playground, or community center	X	X	X	X	X	X	X	
Retail stores or personal services						X	X	
Riding stable	SP	SP						
Self-storage units							X	X
Small wind energy systems	SP	SP						SP
Transmitting tower	SP	SP	SP	SP	SP	SP	SP	SP
Undertaking establishment or mortuary						X	X	
Veterinarian	X	X					SP	X

(Ord. 2003-9.1, passed 9-17-2003; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2005-8.1, passed 8-15-2005; Am. Ord. 2007-1.2, § 4, passed 2-12-2007; Am Ord. 2011-8.1, § 77, passed 10-10-2011)

§ 152.044 AGRICULTURAL DISTRICT (A-1).

INTENT: This district is intended for general agricultural purposes within one mile of the village, specifically in the rural area located beyond the corporate limits to the northwest, north, and northeast. This agricultural area is intended to support the identified Future Growth areas of the village identified in the Future Land Use Plan of Bennet (See Illustrations 5.4 and 5.5 of the Comprehensive Plan).

(A) *Permitted principal uses.* In the (A-1) Agricultural District, buildings, structures, and land shall be used only for the purposes listed in § 152.043 or the following additional purposes:

- (1) Agriculture or truck gardening, provided that any building for the shelter of animals shall be at least 50 feet from all street and lot lines; and/or
- (2) Educational, religious, or philanthropic institutions, but not including penal or mental institutions, located on more than 10 acres.

(B) *Permitted special uses.* Special use permits may be obtained for the uses indicated in § 152.043 or the following additional purposes: removal of gravel, top soil, or similar natural materials, with safeguards for protection of the adjoining property and the community as a whole.

(C) *Permitted accessory uses.*

- (1) Accessory buildings and uses customarily incidental to the permitted uses; provided, any accessory building is not constructed prior to beginning construction of the main building;
- (2) Home occupations, as defined in § 152.026;

Bennet – Land Usage

- (3) Child care, for not more than 12 children;
- (4) Parking for permitted uses as required by this chapter;
- (5) Signs:

(a) On-premise signs, including home occupations, bulletin boards, and signs not exceeding 60 square feet in area and not exceeding 45 feet in height, appertaining to the lease, hire, or sale of a building or premises or to any material that is mined, manufactured, grown, or treated within the district shall be allowed, provided, however, that the signs shall be located upon or immediately adjacent to the building or in the area in which the materials are treated, processed or stored; and/or

(b) Signs with an area no greater than 1 square foot for each 10 lineal feet of highway frontage, and provided however, that:

1. No sign may be permitted that interferes with, imitates, or resembles any official traffic sign, signal, or device;

2. No sign may be permitted which contains, includes, or is illuminated by any flashing, intermittent, or moving light or lights or any animated or moving parts; and

3. No sign may be permitted to be erected upon or maintained or painted upon trees or rocks.

(D) *Area, yard, and height.* Area, yard, and height requirements for this district shall be:

- (1) Minimum lot size shall be 10 acres with a minimum width of 250 feet;
- (2) Minimum yard requirements;

(a) Front yard depth - not less than 50 feet from the front property line or 100 feet from the center line of a public road, whichever is greater;

(b) Side yard depth - not less than 20 feet; and

(c) Rear yard depth - not less than 50 feet.

(3) The maximum height of structure in this district shall be 35 feet or 2 and ½ stories.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2007-1.2, § 5, passed 2-12-2007) Penalty, See § 152.999

Zoning Code

§ 152.044.5 RURAL RESIDENTIAL DISTRICT (A-2).

INTENT: This district is intended to allow for smaller minimum lot sizes in rural areas of the One-mile Planning Jurisdiction of the Village of Bennet, when not located within the designated growth areas of the Future Land Use Plan. The areas located to the west, southwest, south or southeast of the Omaha Public Power District Railroad corridor are the general areas designed for this District. This area is also impacted by the flood plain of the Little Nemaha River. *(When these two factors are combined, the likelihood of the village ever supplying Municipal water and sanitary sewer service is very slight, due to the high cost of boring under the railroad, and the need for lift stations and booster pumps to be able to service the area.)*

(A) *Permitted Principal Uses.* In the (A-2) Rural Residential District, buildings, structures, and land shall be used only for the purposes listed in Section 152.043 or the following additional purposes:

(1) Agriculture or truck gardening, provided that any building for the shelter of animals shall be at least 50 feet from all street and lot lines.

(B) *Permitted Special Uses.* Special Use Permits may be obtained for the uses indicated in § 152.043 or the following additional purposes:

(1) Removal of gravel, top soil, or similar natural materials, with safeguards for protection of the adjoining property and the community as a whole.

(C) *Permitted accessory uses.*

(1) Accessory buildings and uses customarily incidental to the permitted uses; provided, any accessory building is not constructed prior to beginning construction of the main building;

(2) Home occupations, as defined in § 152.026;

(3) Child care, for not more than 12 children;

(4) Parking for permitted uses as required by this chapter;

(5) Signs:

(a) On-premise signs, including home occupations, bulletin boards, and signs not exceeding 60 square feet in area and not exceeding 45 feet in height, appertaining to the lease, hire or sale of a building or premises or to any material that is mined, manufactured, grown, or treated within the district shall be allowed, provided however, that the signs shall be located upon or immediately adjacent to the building or in the area in which the materials are treated, processed or

Bennet – Land Usage

stored; and/or adjacent to the building or in the area in which the materials are treated, processed or stored; and/or

(b) Signs with an area no greater than 1 square foot for each 10 lineal feet of highway frontage, and provided however, that:

1. No sign may be permitted that interferes with, imitates, or resembles any official traffic sign, signal, or device;

2. No sign may be permitted which contains, includes, or is illuminated by any flashing, intermittent, or moving light or lights or any animated or moving parts; and

3. No sign may be permitted to be erected upon or maintained or painted upon trees or rocks.

(D) *Area, yard, and height.* Area, yard and height requirements for this district shall be:

(1) Minimum lot size shall be 3 acres with a minimum width of 250 feet.

(2) Minimum yard requirements:

(a) Front yard depth-not less than 50 feet from the front property line or 100 feet from the center line of a public road, whichever is greater;

(b) Side yard depth-not less than 20 feet; and

(c) Rear yard depth-not less than 50 feet.

(3) Maximum height of structure in this district shall be 35 feet or 2 and ½ stories.
(Ord. 2007-1.2, § 6, passed 2-12-2007)

§ 152.045 SINGLE FAMILY RESIDENTIAL DISTRICT (R-1).

INTENT: This district is intended to provide for residential uses consisting primarily of single family dwelling units and accessory structures.

(A) *Permitted principal uses.* In the (R-1) Single Family Residential District, buildings, structures, and land shall be used only for the purposes listed in § 152.043 or the following additional purposes: educational, religious, or philanthropic institutions, but not including penal or mental institutions;

(B) *Permitted special uses.* Special use permits may be obtained for uses indicated in § 152.043.

Zoning Code

(C) *Permitted accessory uses.*

(1) Accessory building or use customarily incidental to the above uses; provided, any accessory building is not constructed prior to beginning construction of the main building;

(2) Child care, for not more than 12 children;

(3) Home occupation, as defined in § 152.026;

(4) Parking for permitted uses as required in § 152.073;

(5) On-premise signs, including public building bulletin boards and temporary signs, not exceeding 10 square feet in area, pertaining to the lease, hire, or sale of a building or premises, and church bulletin boards not exceeding 20 square feet in area shall be allowed. Home occupation signs shall be allowed provided there is used no sign other than a small, nonilluminated sign of not more than 4 square feet which is attached to the structure; and/or

(6) Animals, as permitted by village ordinance and subject to the permit process of that ordinance.

(D) *Area, yard, and height.* Area, yard, and height requirements for this district shall be:

(1) Minimum lot size shall be 10,000 square feet with a minimum width of 80 feet;

(2) Minimum yard requirements:

(a) Front yard depth - not less than 30 feet;

(b) Side yard depth - not less than 10 feet;

(c) Rear yard depth - not less than 30 feet; and

(d) Accessory buildings up to 600 square feet may have a side yard of not less than 6 feet and a rear yard of not less than 6 feet, provided they are a minimum of 10 feet from the principal structure.

(3) The maximum height of structure in this district shall be 35 feet or 2 and ½ stories;

(4) Maximum lot coverage - 75% of the total lot area is the maximum permitted coverage by buildings, structures, and surface paving.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2007-1.2, § 7, passed 2-12-2007) Penalty, See § 152.999

Bennet – Land Usage

§ 152.046 MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2).

INTENT: This district is intended for single and 2-family residential uses to provide for medium density development areas generally in close proximity to public, parks and recreational, and commercial uses. R-2 Districts should generally be located along “primary streets” (arterial or collector streets) throughout the community to lessen their impact upon single family districts beyond, or between R-1 and R-3 Residential Districts.

(A) *Permitted principal uses.* In the (R-2) Medium Density Residential District, buildings, structures, and land shall be used only for the purposes listed in § 152.043 or the following additional purposes: educational, religious, or philanthropic institutions, but not including penal or mental institutions.

(B) *Permitted special uses.* Special use permits may be obtained for uses indicated in § 152.043.

(C) *Permitted accessory uses.*

(1) Accessory building or use customarily incidental to the above uses; provided, any accessory building is not constructed prior to beginning construction of the main building;

(2) Child care, for not more than 12 children;

(3) Home occupation, as defined in § 152.026;

(4) Parking for permitted uses as required in § 152.073;

(5) On-premise signs, including public building bulletin boards and temporary signs, not exceeding 10 square feet in area, pertaining to the lease, hire, or sale of a building or premises, and church bulletin boards not exceeding 20 square feet in area shall be allowed. Home occupation signs shall be allowed provided there is used no sign other than a small, nonilluminated sign of not more than 4 square feet which is attached to the structure; and/or

(6) Animals, as permitted by village ordinance and subject to the permit process of that ordinance.

(D) *Area, yard, and height.* Area, yard, and height requirements for this district shall be:

(1) Minimum lot size shall be 7,400 square feet with a minimum width of 70 feet;

(2) Attached dwelling or 2-family - there shall be a minimum lot area of 12,000 square feet;

Zoning Code

- (3) Minimum lot size for townhouses shall be 3,700 square feet with a minimum lot width of 35 feet except for those townhouse lots for which a side yard must be provided in which case the minimum lot size shall be 5,000 square feet with a minimum lot width of 44 feet;
- (4) Minimum yard requirements:
 - (a) Front yard depth - not less than 25 feet;
 - (b) Side yard depth - not less than 9 feet, except that the side yard for a townhouse shall be 0 feet on the party wall side;
 - (c) Rear yard depth - not less than 25 feet; and
 - (d) Accessory buildings up to 600 square feet may have a side yard of not less than 6 feet and a rear yard of not less than 6 feet provided they are a minimum of 10 feet from the principal structure.
- (5) The maximum height of a structure in this district shall be 35 feet or 2 and ½ stories; and
- (6) Maximum lot coverage - 75% of the total lot area is the maximum permitted coverage by buildings, structures, and surface paving.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-8.1, passed 8-15-2005; Am. Ord. 2007-1.2, § 8, passed 2-12-07) Penalty, See § 152.999

§ 152.047 MAXIMUM DENSITY RESIDENTIAL DISTRICT (R-3).

INTENT: It is the intent of this district to provide for single and 2-family residential uses.

(A) *Permitted principal uses.* In the (R-3) Multiple Family Residential District, buildings, structures, and land shall be used only for the purposes listed in § 152.043 or the following additional purposes: educational, religious, or philanthropic institutions, but not including penal or mental institutions.

(B) *Permitted special uses.* Special use permits may be obtained for uses indicated in § 152.043.

(C) *Permitted accessory uses.*

(1) Accessory building or use customarily incidental to the above uses; provided, any accessory building is not constructed prior to beginning construction of the main building;

(2) Child care, for not more than 12 children;

Bennet – Land Usage

(3) Home occupation, as defined in § 152.026;

(4) Parking for permitted uses as required in § 152.073;

(5) On-premise signs, including public building bulletin boards and temporary signs, not exceeding 10 square feet in area, pertaining to the lease, hire, or sale of a building or premises, and church bulletin boards not exceeding 20 square feet in area shall be allowed. Home occupation signs shall be allowed provided there is used no sign other than a small, nonilluminated sign of not more than 4 square feet which is attached to the structure; and/or

(6) Animals, as permitted by village ordinance and subject to the permit process of that ordinance.

(D) *Area, yard, and height.* Area, yard, and height requirements for this district shall be:

(1) Minimum lot size shall be 6,000 square feet with a minimum width of 60 feet;

(2) Attached dwelling, 2-family, or multiple - there shall be an additional minimum lot area of 3,000 square feet per dwelling unit. Where a private well or septic tank is provided, a minimum of 20,000 square feet per family shall be provided;

(3) Minimum lot size for townhouses shall be 3,000 square feet with a minimum lot width of 30 feet, except for those townhouse lots for which a side yard must be provided in which case the minimum lot size shall be 3,800 square feet with a minimum lot width of 38 feet.

(4) Minimum yard requirements.

(a) Front yard depth - not less than 20 feet;

(b) Side yard depth - not less than 8 feet, except that the side yard for a townhouse shall be 0 feet on the party wall side;

(c) Rear yard depth - not less than 20 feet; and

(d) Accessory buildings up to 600 square feet may have a side yard of not less than 6 feet and a rear yard of not less than 5 feet provided they are a minimum of 10 feet from the principal structure.

(5) The maximum height of a structure in this district shall be 35 feet or 2 and ½ stories; and

(6) Maximum lot coverage - 75% of the total lot area is the maximum permitted coverage by buildings, structures, and surface paving.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2005-2.1, passed 2-16-2005; Am. Ord. 2007-1.2, § 9, passed 2-12-2007) Penalty, See § 152.999

Zoning Code

§ 152.048 LOCAL BUSINESS DISTRICT (B-1).

INTENT: The B-1 Local Business District is intended for the purpose of servicing highway travelers and providing a range of limited commercial services to Bennet residents. Off-street parking is required in order to reduce possible adverse effects on adjacent properties.

(A) *Permitted principal uses.* In the (B-1) Local Business District, buildings, structures, and land shall be used only for the purposes listed in § 152.043 or the following additional purposes:

(1) Stores or shops where goods are sold primarily at retail or where personal services are rendered, including a grocery, drug store, meat market, bank, electrical repair or similar retail sales, services, or repair shops;

(2) Automobile display or salesroom when located at least 50 feet from any (R) District;

(3) Educational, religious, or philanthropic institutions, but not including penal or mental institutions; and/or

(4) When located at least 100 feet away from any (R) District Boundary:

(a) Bowling alley;

(b) Drive-in restaurant or similar establishment; and/or

(c) Other similar place of entertainment or amusement.

(B) *Permitted special uses.* Special use permits may be obtained for uses indicated in § 152.043 or the following additional purposes: manufacturing that produces no obnoxious or offensive noise, dust, glare, or odors.

(C) *Permitted accessory uses.*

(1) Parking for permitted uses as required in § 152.073; and/or

(2) Signs:

(a) On-premise signs and advertising structures related to the activity conducted on the premises but with sign area not to exceed 100 square feet and in height not to exceed 25 feet shall be allowed and not spaced closer than 100 feet; and

(b) Off-premise signs not exceeding 100 square feet and at least 200 feet apart are allowed, provided that:

Bennet – Land Usage

1. The minimum distance to a Residential District is 100 feet;
2. The maximum height is 25 feet;
3. The minimum distance to an intersection is 25 feet; and
4. The maximum number per parcel of property is 1.

(D) *Area, yard, and height.* Area, yard, and height requirements for this district shall be:

(1) There shall be no minimum lot size and no minimum width for commercial purposes;

(2) Minimum yard requirements:

(a) Front yard depth - not less than 25 feet; provided that required parking may be permitted in the front yard;

(b) Side yard depth - none, except along the side of a lot abutting a lot in an (R) District in which case 10 feet shall be provided; and

(c) Rear yard depth - none, except for a lot abutting an (R) District in which case 25 feet shall be provided.

(3) The maximum height of a structure in this district shall be 45 feet or 3 stories; and

(4) When adjacent to any residentially zoned district, new construction must include a 6 foot high screen along the entire common boundary, except in the required front yard.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2007-1.2, § 10, passed 2-12-2007; Am. Ord. 2011-5.1, passed 6-13-2011) Penalty, See § 152.999

§ 152.049 CENTRAL BUSINESS DISTRICT (B-2).

INTENT: This district is designed to provide for a wide range of retail, office, amusement and service uses normally found in a Central Business District. Highest density and intensity of use are permitted in this district.

(A) *Permitted principal uses.* In the (B-2) Central Business District, buildings, structures, and land shall be used only for the purposes listed in § 152.043 or the following additional purposes:

Zoning Code

(1) Stores or shops where goods are sold primarily at retail or where personal services are rendered, including a grocery, drug store, meat market, bank, electrical repair or similar retail sales, services, or repair shops;

(2) Automobile display or salesroom when located at least 50 feet from any (R) District;

(3) Automobile repair where all inoperable vehicles are kept in a screened area or enclosed building;

(4) Educational, religious, or philanthropic institutions, but not including penal or mental institutions;

(5) Public garage, when located at least 50 feet from any (R) District boundary; and/or

(6) When located at least 100 feet away from any (R) District Boundary:

(a) Bowling alley;

(b) Drive-in restaurant or similar establishment; and/or

(c) Other similar place of entertainment or amusement.

(B) *Permitted special uses.* Special use permits may be obtained for uses indicated in § 152.043 or the following additional purposes: manufacturing which produces no obnoxious or offensive noise, dust, glare, or odors.

(C) *Permitted accessory uses.*

(1) Parking for permitted uses as required in § 152.073; and/or

(2) Signs:

(a) On-premise signs and advertising structures related to the activity conducted on the premises but with sign area not to exceed 100 square feet and in height not to exceed 25 feet shall be allowed and not spaced closer than 100 feet; and

(b) Off-premise signs not exceeding 100 square feet and at least 200 feet apart are allowed, provided that:

1. The minimum distance to a Residential district is 100 feet;

2. The maximum height is 25 feet;

Bennet – Land Usage

3. The minimum distance to an intersection is 25 feet; and

4. The maximum number per parcel of property is 1.

(D) *Area, yard, and height.* Area, yard, and height requirements for this district shall be:

(1) There shall be no minimum lot size and no minimum width for commercial purposes;

(2) Minimum yard requirements:

(a) Front yard depth - not less than 5 feet;

(b) Side yard depth - none, except along the side of a lot abutting a lot in an (R) District in which case 10 feet shall be provided;

(c) Rear yard depth - none, except for a lot abutting an (R) District in which case 25 feet shall be provided.

(3) The maximum height of a structure in this district shall be 45 feet or 3 stories; and

(4) When adjacent to any residentially zoned district, new construction must include a 6 foot high screen along the entire common boundary, except in the required front yard.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2007-1.2, § 11, passed 2-12-2007) Penalty, See § 152.999

§ 152.050 LIGHT INDUSTRIAL DISTRICT (I-1).

(A) *Permitted principal uses.* In the (I-1) Light Industrial District, buildings, structures, and land shall be used only for purposes listed in § 152.043 or the following purposes:

(1) Automobile repair where all inoperable vehicles are kept in a screened area or enclosed building;

(2) Automobile or trailer display or salesroom, or when located at least 50 feet from any (R) District, an automobile or trailer sales storage lot;

(3) Automobile storage yard, where all vehicles are kept in an enclosed and screened area;

(4) Contractor yard, when located inside a building or when wholly enclosed by a well-maintained wooden fence not less than 8 feet in height and in which the openings or spaces are not more than ½ inch wide;

Zoning Code

(5) Public garage, when located at least 50 feet from any (R) District;

(6) Any other business, industry, or manufacturing use where the process of manufacture or treatment or other activity is such that only a nominal amount of dust, odor, gas, smoke or noise is emitted and not more than 10% of the lot or tract is used for the open storage of products, materials, or equipment.

(B) *Permitted special uses.* Special use permits may be obtained for the uses indicated in § 152.043 or the following additional purposes: any use emitting or likely to emit substantial amounts of dust, odor, gas, smoke, or noise, where reasonable measures are employed and approved to protect adjacent property and prevent objectionable, deteriorating, or offensive conditions.

(C) *Permitted accessory uses.*

(1) Parking for permitted uses as required in § 152.073; and/or

(2) Signs:

(a) On-premise signs and advertising structures related to the activity conducted on the premises but with sign area not to exceed 100 square feet and in height not to exceed 25 feet shall be allowed and not spaced closer than 100 feet; and

(b) Off-premise signs not exceeding 100 square feet and at least 200 feet apart are allowed, provided that:

1. The minimum distance to a Residential district is 100 feet;
2. The maximum height is 25 feet;
3. The minimum distance to an intersection is 25 feet; and
4. The maximum number per parcel of property is 1.

(D) *Area, yard, and height.* Area, yard, and height requirements for this district shall be:

(1) The minimum lot size shall be 10,000 square feet;

(2) Minimum yard requirements:

(a) Front yard depth - not less than 25 feet;

(b) Side yard depth - none, except along the side of a lot abutting a lot in any (R) District in which case 15 feet shall be provided; and

Bennet – Land Usage

(c) Rear yard depth - not less than 15 feet.

(3) The maximum height of a structure in this district shall be 45 feet or 3 stories;
and/or

(4) When adjacent to any residentially zoned district, new construction must include a 6 foot high screen along the entire common boundary, except in the required front yard.
(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2007-1.2, § 12, passed 2-12-2007) Penalty, See § 152.999

§ 152.051 HEAVY INDUSTRIAL DISTRICT (I-2).

(A) *Permitted primary uses.* In the (I-2) Heavy Industrial District, buildings, structures, and land shall be used only for the following purposes:

(1) Contractors yard;

(2) Grain elevator;

(3) Any business, industry, or manufacturing use where the process of manufacture or treatment or other activity is such that only a nominal amount of dust, odor, gas, smoke, or noise is emitted and not more than 10% of the lot or tract is used for the open storage of products, materials, or equipment.

(B) *Permitted special uses.* The Board of Trustees may authorize the following special uses after a review and report of the Planning Commission and may impose the reasonable requirements as to the landscaping, screening, and other features of the development as deemed necessary to protect adjacent property and prevent objectionable, deteriorating, or offensive conditions:

(1) Livestock auction or sales barn;

(2) Removal of gravel, top soil, or similar natural materials, with safeguards for protection of the adjoining property and the community as a whole;

(3) Any business, industry, or manufacturing use emitting or likely to emit substantial amounts of dust, odor, gas, smoke, or noise or utilizing more than 10% of the lot or tract for open storage of products, materials, or equipment;

(4) Transmitting tower;

(5) Any similar use that would be hazardous to the public health, safety, or welfare;

(6) Retail bulk storage of gas and propane;

Zoning Code

(7) Auto junk yard or wrecking yard only when located inside a building or when wholly enclosed by a well maintained wooden fence not less than 8 feet in height and in which the openings or spaces are not more than ½ inch wide.

(C) *Permitted accessory uses.*

(1) Parking for permitted uses as required in § 152.073; and/or

(2) Signs:

(a) On-premise signs and advertising structures related to the activity conducted on the premises but with sign area not to exceed 100 square feet and in height not to exceed 25 feet shall be allowed and not spaced closer than 100 feet; and

(b) Off-premise signs not exceeding 100 square feet and at least 200 feet apart are allowed, provided that:

1. The minimum distance to a Residential district is 100 feet;
2. The maximum height is 25 feet;
3. The minimum distance to an intersection is 25 feet; and
4. The maximum number per parcel of property is 1.

(D) *Area, yard, and height.* Area, yard, and height requirements for this district shall be:

(1) The minimum lot size shall be 10,000 square feet;

(2) Minimum yard requirements:

(a) Front yard depth - not less than 25 feet;

(b) Side yard depth - none, except along the side of a lot abutting a lot in an (R) District in which case 25 feet shall be provided; and

(c) Rear yard depth - not less than 15, except for a lot abutting an (R) District in which case 25 feet shall be provided.

(3) The maximum height of a structure in this district shall be 45 feet or 3 stories; and/or

Bennet – Land Usage

(4) When adjacent to any residentially zoned district, new construction must include a 6 foot high screen along the entire common boundary, except in the required front yard. (Ord. 1997-7.1, § 2, passed 7-14-1997; Am Ord. 2007-1.2, § 13, passed 2-12-2007) Penalty, See § 152.999

§ 152.052 HIGHWAY OVERLAY DISTRICT (HO) (Repealed Ord. 2007-1.2, § 14, passed 2-12-2007.)

§ 152.053 FLOOD HAZARD DISTRICT (F).

(A) *Statement of purpose.* It is the purpose of this section to promote the public health, safety, and general welfare and to minimize losses due to flood hazards by applying the provisions of this section to:

(1) Restrict or prohibit uses which are dangerous to health, safety, or property in time of flooding or cause undue increases in flood heights or velocities;

(2) Require that uses vulnerable to floods, including public facilities which serve the uses, be provided with flood protection at the time of initial construction;

(3) Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard; and

(4) Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

(B) *Local Administrator responsibilities.* The Zoning Administrator is authorized and directed to enforce all the provisions of this section and all other ordinances of the Village of Bennet now in force or hereafter adopted, related to zoning, subdivision, or building codes. During temporary absence or disability of the Zoning Administrator, the Board of Trustees of the Village shall designate an acting administrator.

(C) *Methods used to analyze flood hazards.* This section uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps:

(1) Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of the flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood is selected for this section. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this section. It is in the general order of a flood which could be expected to have a 1% chance of occurrence in any 1 year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated April 16, 2013, as amended, and any future revisions thereto;

Zoning Code

(2) Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood;

(3) Computation of the floodway required to convey this flood without increasing flood heights more than 1 foot at any point;

(4) Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile; and

(5) Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but which still is subject to inundation by the base flood.

(D) *Applicability; designation of current F.I.R.M.* This section shall apply to all lands within the jurisdiction of the Village of Bennet identified on the flood insurance rate map (F.I.R.M.) dated April 16, 2013, and any revisions thereto, as numbered and unnumbered A zones (including AE, AO, and AH zones) and within the floodway and flood fringe as identified in the Flood Insurance Study and accompanying maps. In all areas covered by this section, no development shall be permitted except upon issuance of a flood plain permit to develop and granted by the Board of Trustees of the Village of Bennet or its duly designated representative under the safeguards and restrictions as the Board of Trustees of the Village of Bennet or its designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically set forth in this section.

(E) *Permits required.* No person, firm, or corporation shall initiate any flood plain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in this section.

(1) Within special flood hazard areas on the official map, separate flood plain development permits are required for all new construction, substantial improvements and other developments, including the replacement of manufactured homes.

(2) To obtain a flood plain development permit, the applicant shall first file an application therefor in writing on a form furnished for that purpose. Every application shall:

(a) Identify and describe the development to be covered by the flood plain development permit for which application is made;

(b) Describe the land on which the proposed development is to be done by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed building or development;

(c) Indicate the use or occupancy for which the proposed development is intended;

Bennet – Land Usage

(d) Be accompanied by plans and specifications for proposed construction;

(e) Be signed by the permittee or his or her authorized agent who may be required to submit evidence to indicate the authority;

(f) Within designated flood plain areas, be accompanied by elevations of the lowest floor, including basement, or in the case of floodproofed nonresidential structures, the elevation to which it shall be floodproofed. Documentation or certification of the elevations will be maintained by the Zoning Administrator; and

(g) Give other information as reasonably may be required by the Zoning Administrator (i.e., require a statement from the applicant that they are aware that elevating or floodproofing structures above the minimum levels will result in premium reduction, especially in the case of nonresidential floodproofing when a minus 1 foot penalty is assessed at the time of rating the structure for the policy premium.)

(F) *Development permit application review.* The Zoning Administrator shall review all development permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by federal or state law.

(G) *Application review requirements.* The Zoning Administrator, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other development(s) (as defined in division (T) below) will:

(1) Obtain, review, and reasonably utilize, if available, any regulatory flood elevation data and floodway data available from federal, state, or other sources, until the other data is provided by the Federal Insurance Administration in a Flood Insurance Study; and require within special flood hazard areas on the official map that the following performance standards are met.

(a) Until a floodway has been designated, no development or substantial improvement may be permitted within the identified flood plain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the 100-year flood more than 1 foot at any location.

(b) New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least 1 foot above the base flood elevation.

(c) New construction or substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated at least 1 foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or

Zoning Code

architect shall certify that the standards of this subsection are satisfied. The certification shall be provided to the Zoning Administrator.

(d) Require for all new construction and substantial improvements that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than 1 foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(2) Require the use of construction materials that are resistant to flood damage;

(3) Require the use of construction methods and practices that will minimize flood damage;

(4) Require that new structures be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(5) New structures be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(6) Assure that all manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with state laws, local building codes, and F.E.M.A. guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

(a) Over-the-top ties be provided at each of the 4 corners of the manufactured home with 2 additional ties per side at the intermediate locations and manufactured homes less than 50 feet long requiring 1 additional tie per side;

(b) Frame ties be provided at each corner of the home with 5 additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring 4 additional ties per side;

(c) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and

(d) Any additions to manufactured homes be similarly anchored.

Bennet – Land Usage

(7) Assure that all manufactured homes that are placed or substantially improved within special flood hazard areas on the community's official map on sites:

- (a) Outside of a manufactured home park or subdivision;
- (b) In a new manufactured home park or subdivision;
- (c) In an expansion to an existing manufactured home park or subdivision; or
- (d) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated at least 1 foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of division (G)(6) above.

(8) Assure that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's official map that are not subject to the provisions of division (G)(7) above be elevated so that either:

- (a) The lowest floor of the manufactured home is at least 1 foot above the base flood elevation; or
- (b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the provisions of division (G)(6) above.

(9) Require that recreational vehicles placed on sites within the identified special flood hazard areas on the community's official map either be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, or meet the permit requirements and the elevation and anchoring requirements for "manufactures homes" of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(H) *Standards for areas within the floodway.* New structures for human habitation are prohibited. All encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development will not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards set forth in divisions (E) and (G) above. In Zone A unnumbered, any flood elevation and floodway data available through federal, state, or other sources shall be reviewed and reasonably utilized in meeting the standards of this section. Any proposal for development (including proposals for manufactured home parks and subdivisions) of 5 acres or 50 lots, whichever is lesser, shall include within the proposals the base flood elevation.

Zoning Code

(I) *Subdivision applications.* The Board of Trustees of the Village shall review all subdivision applications and other proposed new developments (including manufactured home parks or subdivision) and shall make findings of fact and assure that:

(1) All the proposed developments are consistent with the need to minimize flood damage;

(2) Subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions), greater than 5 acres or 50 lots, whichever is lesser, include within the proposals regulatory flood elevation data in special flood hazard areas;

(3) Adequate drainage shall be shown and necessary easements provided so as to reduce exposure to flood hazards; and

(4) All public utilities and facilities are located so as to minimize or eliminate flood damage.

(J) *Water and sewage systems.* New and replacement water and sewage systems shall be constructed to eliminate or minimize infiltration by, or discharge into floodwaters. Moreover, on-site waste disposal systems will be designed to avoid impairment or contamination during flooding.

(K) *Storage of material and equipment.* The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

(L) *Flood-carrying capacity within any watercourse.* The Board of Trustees of the Village will ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained. The village will notify, in riverine situations, adjacent communities and the State Coordinating Office (Nebraska Natural Resources Commission) prior to any alternation or relocation of a watercourse, and submit copies of the notifications to the Federal Emergency Management Agency. Moreover, the village will work with appropriate state and federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Disaster Protection Act of 1973.

(M) *Variance procedures.*

(1) The Board of Adjustment as established by the Village Board shall hear and decide appeals and requests for variances from the requirements of this section.

(2) The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this section.

Bennet – Land Usage

(3) Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal the decision to the district court as provided in Section 19912, R.R.S. 1943 (for municipalities).

(4) In passing upon the applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this section, and:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of proposed facility and its contents to flood damage and the effect of the damage on the individual owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity to the facility of a waterfront location, where applicable;

(f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

(i) The safety of access to the property in time of flood for ordinary and emergency vehicles;

(j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(5) *Conditions for variances.*

(a) Generally variances may be issued for new construction and substantial improvements to be erected on a lot of ½ acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing divisions (M)(5)(b) through

Zoning Code

(M)(5)(e) below have been fully considered. As the lot size increases beyond the ½ acre, the technical justification for issuing the variance increases.

(b) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship to the applicant, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(e) Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(N) *Nonconforming use.*

(1) A structure or the use of a structure or premises which was lawful before the passage or amendment of this section, but which is not in conformity with the provisions of this section, may be continued subject to the following conditions.

(a) If the use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this section. The Utility Department shall notify the Zoning Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.

(b) Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

(2) If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50% of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this section. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of the structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(O) *Abrogation and greater restrictions.* It is not intended by this section to repeal, abrogate, or impair any existent easements, covenants, or deed restrictions. However, where this

Bennet – Land Usage

section imposes greater restrictions, the provisions of this section shall prevail. All other ordinances inconsistent with this section are hereby repealed to the extent of the inconsistency only.

(P) *Interpretation.* In their interpretation and application, the provisions of this section shall be held to be minimum requirements and shall be liberally construed in favor of the Board of Trustees and shall not be deemed a limitation or repeal, of any other powers granted by state statutes.

(Q) *Warning and disclaimer of liability.* The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This section does not imply that areas outside flood plain district boundaries or land uses permitted within the districts will be free from flooding or flood damage. This section shall not create liability on the part of the Village of Bennet or any officer or employee thereof for any flood damages that may result from reliance on this section or any administrative decision lawfully made thereunder.

(R) *Appeal.* Where a request for a permit to develop or a variance is denied by the Zoning Administrator, the applicant may apply for the permit or variance directly to the Board of Adjustment.

(S) *Conflicting ordinances.* This section shall take precedence over conflicting ordinances or part of ordinances. The Board of Trustees of the Village of Bennet may, from time to time, amend this section to reflect any and all changes in the National Flood Disaster Protection Act of 1973. The regulations of this section are in compliance with the National Flood Insurance Program Regulations as published in 44 C.F.R. and the 1983 Nebraska Floodplain Management Act.

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

APPEAL. A request for a review of the Zoning Administrator's interpretation of any provision of this section or a request for a variance.

BASE FLOOD. The flood having 1% chance of being equaled or exceeded in any given year.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

DEVELOPMENT. Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISIONS. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the flood plain management regulations adopted by a community.

Zoning Code

EXPANSION OF EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD. A general and temporary condition of partial or complete inundation of normally dry land area from:

- (a) The overflow of inland or tidal waters; and/or
- (b) The usual and rapid accumulation of run-off of surface waters from any source.

FLOOD FRINGE. The area of the flood plain, outside of the floodway, that on the average is likely to be flood once every 100 years (i.e., that has a 1 % chance of flood occurrence in any 1 year).

FLOOD INSURANCE RATE MAP (F.I.R.M.). An official map of a community, on which the Administrator has delineated both the special flood hazards areas and the risk premium applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary, floodway map, and the water surface elevation of the base flood.

FLOODPROOFING. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

FLOODWAY. The channel of the river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevations more than a designated height.

HISTORIC STRUCTURE. Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

Bennet – Land Usage

(d) Individually listed on a local inventory of historic places in communities with historic preservations programs that have been certified either;

1. By an approved state program as determined by the Secretary of the Interior; or
2. Directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that the enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this section.

MANUFACTURED HOME.

(a) A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities.

(b) The term ***MANUFACTURED HOME*** does not include a “recreational vehicle” but may include a mobile home as elsewhere defined in these regulations.

NEW CONSTRUCTION. For flood plain management purposes, means structures for which the start of construction commenced on or after the effective date of the flood plain management regulation adopted by a community and includes any subsequent improvements to the structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of flood plain management regulations adopted by a community.

100-YEAR FLOOD. The condition of flooding having 1% chance of annual occurrence.

PRINCIPALLY ABOVE GROUND. At least 51% of the actual cash value of the structure is above ground.

RECREATIONAL VEHICLE. A vehicle which is:

- (a) Built on a single chassis;

Zoning Code

- (b) Four hundred square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOOD ELEVATION. The water surface elevation of the 100-year flood.

SPECIAL FLOOD HAZARD AREA. The land in the flood plain within a community subject to 1% or greater chance of flooding in any given year.

START OF CONSTRUCTION. For other than new construction or substantial improvements under the Coastal Barrier Resources Act, Pub. L. No. 97-348, includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

STRUCTURE. A walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before “start of construction” of the improvement. This includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

Bennet – Land Usage

(b) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

VARIANCE. A grant of relief to a person from the terms of a flood plain management ordinance.

VIOLATION. The failure of a structure or other development to be fully compliant with the community’s flood plain management regulations.

(Ord. 2003-5.1, passed 5-12-2003; Am. Ord. 2010-12.1, passed 12-13-2010; Am. Ord. 2012-12.2, passed 2-11-2013) Penalty, See § 152.999

APPLICATION OF REGULATIONS

§ 152.065 MOBILE HOME PARKS.

(A) Mobile Home Parks shall only be allowed in the R-3 District by Special Permit and under the following conditions:

(1) Individual mobile home lots shall have an area of not less than 4,000 square feet per single wide mobile home and 6,000 square feet per double wide mobile home, and the total number of lots per gross acre shall not exceed 6.

(2) Mobile homes shall be situated on individual lots so there will be a minimum of 15 feet between mobile homes and that each mobile home will be set back at least 15 feet from the nearest service road. Mobile homes parked end-to-end shall have an end-to-end clearance of not less than 10 feet. Enclosed additions shall be considered a part of the mobile home in measuring required yard distance. The required area for each mobile home space shall not include area required for access or service roads, service buildings, recreation areas, office, and other similar Mobile Home Park needs.

(3) The Mobile Home Park shall have direct access to a public street or highway by a right-of-way at least 50 feet in width and a minimum length of 100 feet to permit easy entrance and exit from the Mobile Home Park. Service roads shall be provided to each mobile home space. Each service road shall provide for continuous forward movement, shall connect with a street or highway, and shall have a minimum clear width of 20 feet paved with a suitable dustless material.

(4) Walks and Lighting. Walkways not less than 4 feet wide shall be provided from mobile home spaces to the service buildings. All walkways within the park shall be hard surfaced and lighted at night with a minimum illumination of 25 watt lamps spaced at intervals of not more than 100 feet.

Zoning Code

(5) Off-Street Parking. Two off-street parking spaces for each mobile home space shall be provided at each mobile home space or in group parking. Each off-street parking space shall be at least 300 square feet.

(6) The area of the mobile home stand shall be improved to provide an adequate and approved foundation for the placement and tie-down of the mobile home, thereby securing the super-structure against uplift, sliding, rotation, or overturning.

The mobile home or trailer stand shall be on incombustible materials and shall not shift or settle unevenly under the weight of the mobile home or trailer due to frost action, inadequate drainage, vibration or other forces acting upon the super-structure. The mobile home or trailer stand may be provided by means of a solid concrete footer block (16" x 16" x 4" minimum) placed on solid uniform soil with at least 2 standard concrete blocks with cells placed vertically beside each other on the footer block. A solid 4 inch concrete cap covering the 2 concrete blocks shall be provided as the bearing area to be positioned directly beneath the steel frame of the mobile home or trailer. Such blocking shall be provided along the full length of the mobile home or trailer unit, spaced not more than 10 feet apart, and not more than 5 feet from the ends of the unit.

(7) The mobile home or trailer stand shall be provided with anchors and the tie downs such as cast-in-lace concrete "dead men," eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors or other devices securing the stability of the mobile home or trailer. The tie-down devices shall be compatible with the foundation system provided for the mobile home or trailer such that the tie-downs are designated to resist the action of frost in the same manner as the foundation system.

(8) The skirting of all mobile homes and trailers is required. Such skirting shall not attach a mobile home or trailer permanently to the ground, but shall be sufficient to withstand wind load requirements and shall not provide a harborage for junk or rodents, nor create a fire hazard. Such skirting shall be provided with removable access panels sufficient to provide easy access to all utility connection points of the mobile home or trailer and its subsequent connection to the utility raisers if they are located within the skirted area.

(B) Any Mobile Home Park may be designed to permit the sale of the individual mobile home lots within said park. A Mobile Home Park in which the individual mobile home lots will be offered for sale shall meet all of the following requirements:

(1) The individual mobile home lots shall meet the minimum lot requirements, minimum yard requirements, maximum lot coverage, and maximum height requirements of the R-3 District single family dwellings.

(2) Each mobile home lot shall be individually serviced with all utilities and shall be individually metered.

Bennet – Land Usage

(3) The developer of such Mobile Home Park shall be required to apply for and receive approval of a preliminary and final plat of the Mobile Home Park in accordance with Chapter 151 of this Code.

(4) The developer shall, prior to approval of the plat, submit to the village all legal documents necessary for the creation of an association having the purpose of maintaining the common areas within the Mobile Home Park and paying all expenses, taxes and costs related thereto. Covenants shall be placed on the property by the developer and owners thereof requiring that all property owners within the Mobile Home Park be members of the association and permitting the lots owned within the Mobile Home Park to be assessed for all costs incurred in performing such obligations. No subdivision permit or special use permit may be issued without the approval of these documents by the Village Board.

(Neb. RS 19-907) (Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2007-1.2, § 15, passed 2-12-2007) Penalty, See § 152.999

§ 152.066 LOT OF RECORD.

Where the owner of a lot of record in any district at the time of the adoption of this chapter or his or her successor in title thereto does not own sufficient contiguous land to enable him or her to conform to the minimum lot size requirements of this chapter, the lot may be used as a building site, provided that the lot is used so as to conform to all yard requirements of this chapter.

(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

§ 152.067 SETBACKS.

Where 50% or more of any block front is improved with permanent buildings, no part of any new building shall project beyond that front line of the 2 nearest permanent buildings, except that no building shall be required to provide a front yard greater than 50 feet.

(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

§ 152.068 SIDE YARD.

The required side yard shall be maintained on each side of a dwelling, but the side yard may be reduced to 10% of the lot width on lots of less than 60 feet in width; provided, however, that no side yard shall be less than 6 feet; or no new dwelling shall be closer than 12 feet to any existing dwelling.

(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

Zoning Code

§ 152.069 REAR YARD DEPTH.

The required rear yard may be reduced to 20% of the depth of the lot. An accessory building may be built within a required rear yard when located at least 6 feet from the rear lot line and when occupying not more than 30% of the area of the required rear yard.

(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

§ 152.070 PROJECTIONS.

Every part of a required yard or court shall be open from its lowest point to the sky unobstructed except:

(A) The ordinary projection of sills, eaves, belt courses, cornices, and ornamental features may be permitted, but not to exceed more than 3 feet into any required yard; and

(B) An open, uncovered porch or paved patio may extend not more than 10 feet into any required front or rear yard and not more than 3 feet into any required side yard.

(C) Fireproof outside stairways and egress windows may project not more than 3 feet into any required side yard.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am Ord. 2007-1.2, § 16, passed 2-12-2007) Penalty, See § 152.999

§ 152.071 CORNER LOTS.

(A) (1) On corner lots, the side yard on that side of the lot abutting the side street shall not be less than the front yard required for the district in which the lot is located; provided, that on a lot of record, the building width shall not be reduced to less than 40 feet.

(2) Accessory buildings on the side of the lot abutting the side street shall not be closer to the lot line abutting on that side street than the distance specified for front yards of lots fronting on the side street.

(B) In all districts except industrial and commercial, nothing between 18 inches from the ground to 8 feet from the ground shall be located, erected, or maintained in the area within a triangle formed by the intersection of the lot lines of a corner lot adjacent to a street or alley back a distance of 20 feet along the lot lines from the intersection. (Figure 3)

(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

Bennet – Land Usage

§ 152.072 HEIGHT LIMITATIONS.

The height limitations of this chapter shall not apply to chimneys, cooling or water towers, grain elevators, bulkheads, fire towers, stacks, storage towers, tanks, spires, church steeples, or necessary mechanical apparatus. Public, semi-public, or public service buildings, hospitals, institutions, churches, and schools, when permitted in a district, may be erected to a height not exceeding 60 feet; provided, that all required yards are increased by 1 foot for each foot of building height above the height limit otherwise provided.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2011-8.1, § 78, passed 10-10-2011) Penalty, See § 152.999

§ 152.073 OFF-STREET PARKING REQUIREMENTS.

No building shall be erected, enlarged, or changed in use unless there is provided on the lot or tract of land space for the parking of automobiles or trucks in accordance with the following minimum requirements:

(A) Dwellings - 2 parking spaces for each dwelling unit;

(B) Commercial uses - 1 parking space for each 200 square feet, except in the (B-2) Central Business District, where no minimum is required;

(C) Industrial uses - 1 parking space for each 2 employees on the largest shift; and

(D) Places of public assembly - 1 space for each 10 seating capacity in the main auditorium.

(E) Front Yard Parking – No parking shall be permitted in the required front yard in the R-1, R-2, or R-3 Districts; provided, however, parking of automobiles, including pickup trucks and motorcycles, shall be permitted in customary driveways of single or two family dwellings.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2007-1.2, § 17, passed 2-12-2007) Penalty, See § 152.999

§ 152.074 SWIMMING POOLS.

(A) All “above” or “in” ground swimming pools of a permanent nature constructed within the zoning jurisdiction of the Village of Bennet, Nebraska, shall be constructed in compliance with the building code as adopted by the Village of Bennet.

(B) The swimming pool shall be completely surrounded by a fence or wall not less than 4 feet in height, which shall be so constructed as not to have openings, holes, or gaps larger than 4 inches except for doors and gates. If the pool is constructed wholly or partially above ground level, that part of the pool wall which is out of the ground may be included as part of the fencing height requirement; provided, that the ground is level or slopes away from the pool for at least 3 feet from the pool wall.

Zoning Code

(C) All gates or doors shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times.

(D) On above ground pools, the entrance into the pool must either be enclosed by a fence with a gate as required above, or the entrance must be by use of a limited access ladder which has provisions for making entry to the pool inaccessible when the pool is not in use.

(E) Drainage of the swimming pool must not be onto adjoining property. There shall be no drainage of the swimming pool into the sanitary sewer of the village. Drainage may be permitted into the storm sewer or drainage way provided the chemicals contained in the swimming pool are first diluted.

(F) All chemicals for the swimming pool must be stored in a secure area.
(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

§ 152.075 RECREATIONAL VEHICLES, TRAILERS, OR EQUIPMENT.

All vehicles, trailers, or equipment expressly designated or used for recreational or seasonal use shall not be used for dwelling purposes on any lot except as may be authorized elsewhere, or except as a sleeping area for visitors for a period of time not greater than 2 weeks.
(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

§ 152.076 FENCES. The following regulations shall apply to the construction of fences:

(A) No fence shall be constructed closer to the street than the property line. No fence shall be closer than 2 feet to the sidewalk.

(B) No fence erected in a required front yard shall materially obstruct public view. Permitted types of fences shall include split rail, chain link, or other similar material. No component of a front yard fence shall exceed 4 feet in height, nor shall any structural member exceed 36 inches in cross-sectional area.

(C) No fence shall be constructed that will constitute a traffic hazard by obstructing the visibility at intersections (See § 152.07).

(D) No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals by intent of its construction or by inadequate maintenance.

(E) No fence shall be constructed within any residential district of a height greater than 6 feet, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds.

Bennet – Land Usage

(F) All fences shall conform to the construction standards of the building code and other applicable ordinances and resolutions.

(G) In commercial and industrial districts, maximum height of fences shall be 8 feet. When industry standards for certain types of businesses require fences of greater heights, the Zoning Administrator may, in his or her discretion, allow greater heights up to such industry standards.

(H) The “good” side of a fence, such as, but not limited to, a stockade fence, shall face outward, or towards adjacent property, or the public right-of-way.

(I) All fences constructed in the Village of Bennet shall comply with the provision of this section and obtain a building permit.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2007-1.2, § 18, passed 2-12-2007) Penalty, See § 152.999

§ 152.077 LIGHTING IN COMMERCIAL AREAS.

Exterior lighting for all uses in commercial and industrial districts shall be designed and installed so as to eliminate direct illumination of adjacent properties. The fixtures shall not cast direct light upward or beyond the property on which they are located.

(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

SPECIAL USE PERMITS

§ 152.090 GENERAL PROVISIONS.

A special use permit shall be obtained for certain uses which may be harmonious under special conditions and in specific locations within a zone, but may not be allowed under the general conditions of the zone as stated in this code. In granting any special use permit, the Board of Trustees of the Village of Bennet may prescribe and impose appropriate conditions and safeguards, including a specified time limit for a special use.

(Ord. 1997-7.1, § 2, passed 7-14-1997) Penalty, See § 152.999

§ 152.091 APPLICATION FOR SPECIAL USE PERMITS.

A request for a special use permit or modification of a special use permit may be initiated by a property owner or his or her authorized agent by filing an application with the Zoning Administrator upon forms prescribed for the purpose. The application shall be accompanied by a drawing or site plan and other plans and data showing the dimensions, arrangements, descriptions, data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in

Zoning Code

relation to the provisions set forth herein. The application shall be accompanied with a nonrefundable fee set by resolution of the Board of Trustees.

(Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.092 ISSUANCE OF SPECIAL USE PERMITS.

(A) (1) Before the issuance of any special use permit, the proposed application shall be referred to the Planning Commission for consideration. The Commission shall have 30 days in which to make its report to the Village Board.

(2) If no report is received from the Commission within 45 days, it shall be assumed that approval has been given.

(B) The Village Board shall consider the application for the special use permit together with the recommendations of the Planning Commission at a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the Village of Bennet, 1 time at least 10 days prior to the hearing.

(C) The concurring vote of 2/3 of the members of the Board shall be necessary to grant a special use permit. Any conditions imposed on the use shall be itemized, described, or justified, and then recorded and filed in writing.

(D) Any granted special use permit shall become null and void within 1 year of the date of approval if not exercised. A special use permit shall be considered exercised when the use has been established or when a building permit has been issued and substantial construction accomplished. A special use permit may be revoked if the applicant fails to comply with the imposed conditions.

(Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.093 STANDARDS.

No special use permit shall be granted unless the Planning Commission or Village Board has found:

(A) That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community;

(B) That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood;

(C) That the establishment of the special use will not impede the normal and orderly development of the surrounding property for uses permitted in the district;

Bennet – Land Usage

(D) That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;

(E) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;

(F) That the use shall not be objectionable due to noise, dust, vapors, or other substance which is harmful to health, animals, vegetation, or other property or which can cause soiling, discomfort, or irritation;

(G) That the use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property;

(H) That the use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway;

(I) That the use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion;

(J) That the use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.
(Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.094 SMALL WIND ENERGY SYSTEMS.

In addition to meeting the standards set forth in § 152.093 of this chapter, small wind energy systems may be allowed as specially permitted uses in the A-1, A-2, and I-1 Districts, subject to the following specific conditions:

(A) The base of the tower shall be set back from all property lines, utility easements and rights of way equivalent to the height of the tower, including turbine blades. Any facility mounted on a building shall be set back from the edge of the building equivalent to the height of the facility measured from the building mount.

(B) Maximum tower height, measured to the highest point of the turbine blades shall be:

(1) In the Agricultural Districts – 100 feet;

(2) In the Industrial District – 80 feet.

(C) Noise. Small wind energy systems shall not exceed 60 dba measured at the closest neighboring inhabited structure. The level may be exceeded during short term events such as utility outages or severe wind events greater than 50 mph.

Zoning Code

(D) All small wind energy systems shall be designed and approved by a listing agency such as the American Wind Energy Association, UL, Factory Mutual, or other listing agency, or be designed by a licensed engineer.

(E) All building permit applications shall be accompanied by engineered drawings and specifications for the tower, base, footings, and other facilities from the manufacturer or designer.

(F) All small wind energy systems shall be located, constructed and operated to comply with any applicable Federal Aviation Administration Regulations or Guidelines.

(G) All small wind energy systems shall be in compliance with the National Electric Code.

(H) Any interconnection with the electric utility serving Bennet shall be authorized and approved by such utility.

(I) If a wind generator is inoperable for more than one year, the owner shall be notified that they must, within 3 months of receiving notice, restore to working order or remove the system.

(J) No signs other than manufacturer safety and warning labeling shall be placed on the tower of the turbine. For systems which exceed 12 volts, "High Voltage" warning signs shall be posted on or near the system.

(K) The wind generator system shall not have any illumination unless required by FAA regulations or guidelines.

(L) Any climbing devices shall be removed below 12 feet to prevent unauthorized climbing.

(M) The tower shall be freestanding without the aid of guy wiring.

(N) Turbine blades, whether horizontal or vertical shall be a minimum of 12 feet above the adjacent grade.

(O) All communications and connector lines associated with the installation shall be buried. If obstacles prevent an underground installation, the applicant shall request a waiver from the Village Board.

(Ord. No. 2011-8.1, § 79, passed 10-10-2011)

Bennet – Land Usage

BOARD OF ADJUSTMENT

§ 152.105 MEMBERS, TERMS, AND MEETINGS.

(A) Pursuant to Neb. Rev. Stat. § 19-911 (Reissue 2007), the Village Board shall constitute the Board of Adjustment for the Village of Bennet and shall exercise those powers granted to boards of adjustment by state statute and pursuant to Sections 152.106 and 152.107 of the Code of Bennet. The concurring vote of two-thirds (2/3) of the members of the Village Board acting as the Board of Adjustment shall decide any question upon which it is required to pass as such Board.

(B) The Village Clerk/Treasurer or designee shall act as Secretary to the Board and keep a record of all proceedings, but shall take no other part in the Board's deliberations.

(C) Meetings of the Board shall be held at the call of the Chairperson and the other times as the Board shall determine. The Chairperson, or in his or her absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. 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 the 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. The Board shall adopt from time to time such rules and regulations as it may deem necessary, to carry the appropriate provisions of this chapter into effect.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2010-2.1, § 1, passed 7-12-2010)

§ 152.106 APPEALS TO BOARD; RECORD OF APPEAL; HEARINGS AND STAYS.

(A) As provided in Neb. RS 19-909, appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. The appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(B) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of the appeal shall have been filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record in application on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties, in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney.

(Ord. 1997-7.1, § 2, passed 7-14-1997)

Zoning Code

§ 152.107 POWERS AND JURISDICTION ON APPEAL.

(A) The Board of Adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures, except that the authority to hear and decide appeals shall not apply to decisions made regarding the issuance of special use permits pursuant to Section 152.090 to 152.093 of this Code;

(2) To hear and decide, in accordance with the provisions of these regulations, requests for interpretation of any map; and

(3) To grant variances, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of these regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any regulation under these regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of these regulations.

(B) No variance shall be authorized by the Board unless it finds that:

(1) The strict application of these regulations would produce undue hardship;

(2) The hardship is not shared generally by other properties in the same district and the same vicinity;

(3) The authorization of the variance will not be a substantial detriment to adjacent properties and the character of the district will not be changed by the granting of the variance; and

(4) The granting of the variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

(C) No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to these regulations.

(D) In exercising the above mentioned powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make the order, requirement, decision, or determination as ought to be made, and to that end shall have all

Bennet – Land Usage

the powers of the officer from whom the appeal is taken. The concurring vote of 4 members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under these regulations or to effect any variation in these regulations.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2010-2.1, § 2, passed 7-12-2010)

§ 152.108 APPEALS TO DISTRICT COURT.

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may appeal as provided by Neb. RS 19-912.

(Ord. 1997-7.1, § 2, passed 7-14-1997)

AMENDING THE ZONING CODE

§ 152.120 GENERALLY.

(A) This chapter, including the official zoning map, may from time to time be amended, supplemented, changed, modified, or repealed. In case of a protest against the change, signed by the owners of 20% of more either of the area of the lots included in the proposed changes, or of those immediately adjacent on the sides and in the rear thereof extending 300 feet therefrom, and of those directly opposite thereto extending 300 feet from the street frontage of the opposite lots, the amendment shall not become effective except by the favorable vote of 3/4 of all the members of the Board of Trustees. The Board of Trustees shall request and receive the advice of the Planning Commission before taking definite action on any contemplated amendment, supplement, change, modification, or repeal. No regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of the hearing shall be given by publication thereof in a paper of general circulation in Bennet at least 1 time 10 days prior to the hearing.

(B) (1) In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. The notice shall not be less than 18 inches in height and 24 inches in width with a white or yellow background and black letters not less than 1 and ½ inches in height. The posted notice shall be so placed upon the premises that it is easily visible from the street nearest the same and shall be so posted at least 10 days prior to the date of the hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change the notice prior to the hearing. Any person so doing shall be deemed guilty of a misdemeanor. If the record title owners of any lots included in the proposed change be nonresidents of the Municipality, then a written notice of the hearing shall be mailed by certified mail to them addressed to their last known addresses at least 10 days prior to the hearing.

Zoning Code

(2) At the option of the Board of Trustees, in place of the posted notice provided above, the owners or occupants of the real estate to be zoned or rezoned and all real estate located within 300 feet of the real estate to be zoned or rezoned may be personally served with a written notice thereof at least 10 days prior to the date of the hearing, if they can be served with the notice within Lancaster County. Where the notice cannot be served personally upon the owners or occupants in Lancaster County, a written notice of the hearing shall be mailed to the owners or occupants addressed to their last known addresses at least 10 days prior to the hearing.

(3) The provisions of this section in reference to notice shall not apply in the event of a proposed change in the regulations, restrictions, or boundaries throughout the entire area of an existing zoning district in the Bennet zoning jurisdiction, or in the event additional or different types of zoning districts are proposed, whether or not the additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the municipality, but only the requirements of division (A) above shall be applicable.

(C) In the event that any request for an amendment, supplement, change, modification, or repeal of any provision of this chapter, including the official zoning map, is denied by the Board of Trustees, no new request shall be made for the same or a substantially similar amendment, supplement, change, modification, or repeal within one year of the denial thereof.

(Ord. 1997-7.1, § 2, passed 7-14-1997; Am. Ord. 2008-1.1, passed 3-10-2008) Penalty, See § 152.999

§ 152.121 FEES.

Before any action shall be taken as provided in §§ 152.120 *et seq.*, except actions initiated by the Planning Commission, the party or parties proposing a change in the zoning regulations or district boundary, shall deposit with the Village Clerk/Treasurer a fee set by resolution of the Board of Trustees to cover the approximate cost of this procedure, and under no condition shall the fee or any part thereof be refunded for failure of the change to be adopted by the Board of Trustees.

(Ord. 2000-9.2, passed 9-13-2000)

§ 152.122 ANNEXATION OF TERRITORY; CHANGE OF ZONING.

When territory comes within the 1 mile zoning jurisdiction of the village by reason of annexation to the village, the Planning Commission shall initiate a change of zoning of the territory and/or lots to the classification or zoning district closest in use and area regulations to the previous county zoning.

(Ord. 2000-9.2, passed 9-13-2000)

Bennet – Land Usage

ENFORCEMENT

§ 152.135 RESPONSIBILITY.

The provisions of this chapter shall be enforced by the Zoning Inspector or other individual appointed by the Board of Trustees. Appeal from the decision of the Zoning Inspector may be made to the Board of Appeals as provided herein.

(Neb. RS 19-909, 19-913) (Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.136 ZONING CERTIFICATE.

A zoning certificate shall be required to erect, construct, reconstruct, alter, maintain, or use any building or structure, or to use any land as herein specified. It shall be the duty of the Zoning Inspector to issue a zoning certificate if the building or other structure and the proposed use thereof, or the proposed use of the land or premise, conforms with all of the requirements herein set forth.

(Neb. RS 19-902) (Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.137 BUILDING PERMIT.

Application for a building permit shall be accompanied by a plat in duplicate, drawn to scale, showing the name of the applicant, the actual dimensions of the lot to be built upon as shown by a survey, the size, shape, and location of the building to be erected, and the other information as may be necessary for the enforcement of these regulations.

(Ord. 1997-7.1, § 2, passed 7-14-1997)

§ 152.999 PENALTY.

(A) (1) Any person, firm, or corporation violating any provision of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$100. Each and every day during which the illegal locating, erection, construction, reconstruction, enlargement, change, maintenance, or use continues may be deemed a separate offense.

(2) In case any building is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building or land is used in violation of this chapter, the Zoning Inspector, or any other appropriate municipal authority, or any person who would be damaged by the violation, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate action or proceeding to prevent the violation.

(Neb. RS 19-913) (Ord. 1997-7.1, § 2, passed 7-14-1997)

(B) Violation of the provisions of § 152.053 or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants

Zoning Code

of variances or special exceptions) shall constitute a misdemeanor. Any person who violates § 152.053 or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100, and in addition, shall pay all costs and expenses involved in the case. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Village of Bennet or other appropriate authority from taking the other lawful action as is necessary to prevent or remedy any violation.

(Ord. 2003-5.2, passed 5-12-2003)

Bennet – Land Usage

CHAPTER 153: COMPREHENSIVE PLAN

Sections:

153.01 Adoption by reference

The Village's Comprehensive Plan is hereby adopted by reference and incorporated herein as if set out in full.

Bennet – Land Usage

PARALLEL REFERENCES

References to Nebraska Code
References to 1994 Code
References to Ordinances

REFERENCES TO NEBRASKA CODE

<i>Neb. RS Cite</i>	<i>Code Section</i>
10-101 - 10-143	34.11
10-201 - 10-209	34.11
10-301 - 10-305	34.11
10-401 - 10-411	34.11
10-606 - 10-614	34.11
11-101	33.31
11-103 - 11-118	33.30
12-1001 - 12-1004	34.11
13-403	92.08
13-503(7)	34.01
13-504	34.33
13-505	34.33
13-506	34.34, 34.37
13-507	34.34
13-508	34.35
13-509.01	34.32
13-509.02	34.32
13-511	34.37
13-518 - 13-522	34.37
13-606	34.03
16-714 - 16-716	34.09
17-104	33.01
17-108.02	31.02
17-134	111.01, 111.02
17-142	130.02, 150.30
17-149	32.16, 53.02
17-150	31.08
17-202 - 17-204	30.15
17-202 - 17-210	30.17
17-204	33.04
17-205	33.01
17-207	30.16
17-207	51.03
17-208	32.03, 91.01, 91.02
17-209.02	33.45
17-210	30.35, 33.01
17-405	31.08, 31.09
17-426	151.999
17-503	92.05
17-503.01	92.05
17-503.2	92.06
17-505	10.99, 30.30
17-509	92.45
17-522 - 17-524	92.29
17-525	110.03, 110.09, 111.01
17-526	93.26, 93.32, 93.45, 93.47, 93.51
17-529.01	34.11
17-529.08	34.11
17-531	32.15
17-534	32.15, 34.11
17-536	52.25

Neb. RS Cite***Code Section***

17-537	52.15, 52.18, 52.19, 52.22, 52.23, 52.27, 52.28, 52.31
17-538	50.06
17-539	52.26
17-540	52.20
17-541	31.07
17-542	52.18, 52.21
17-548	93.31
17-555	91.24, 92.03, 130.02
17-556	90.09, 130.01, 130.08, 130.09
17-557	92.03, 92.04, 92.25, 92.47 - 92.49, 92.50, 130.02
17-557.01	92.03, 92.04, 92.11
17-562	111.01, 111.02
17-563	130.06
17-567	92.46
17-567(1)	92.02
17-568	31.09
17-568.01	31.08, 31.09, 34.02
17-568.02	34.02
17-604	31.10, 33.30
17-605	31.03
17-606 - 17-609	31.04
17-606	31.04
17-607	34.08
17-608	34.10
17-609	34.10
17-610	31.06
17-612	33.45
17-613	30.33, 30.35 - 30.37, 34.02
17-614	30.33, 30.34, 30.38
17-615	30.36
17-616	30.34
17-701	34.30
17-702	34.62
17-706	34.36
17-708	34.05
17-710	34.06
17-711	34.04
17-714	34.04
17-715	34.04
17-720	34.09
17-901	53.03
17-902	53.03
17-905	34.11
17-908	34.11
17-911	34.11
17-919	31.08, 31.09
17-925.01	32.16, 50.06
17-939	34.11
17-948 - 17-952	94.01
17-953	92.07
17-953.01	92.07

Neb. RS Cite***Code Section***

17-954	92.07
17-958	34.11
17-968	34.11
17-1001	91.22, 152.002
17-1002	151.002
17-1003	151.003
18-131	30.35
18-132	141.01-141.109, 142.01-142.09, 143.01-143.07, 144.01
18-305 - 18-312	33.46
18-412.01	34.02
18-503	50.06, 53.02, 53.03
18-1001 <i>et seq.</i>	92.05
18-1214	34.64
18-1303	51.04 - 51.07
18-1720	10.99, 30.16, 91.20 - 91.22, 91.24, 92.11, 130.05, 130.06, 147.01-147.06
18-1722	10.99
18-1743	145.04
18-1755	92.07, 92.08
18-1801 - 18-1805	34.11
19-710	91.23
19-901	152.001
19-902	152.005, 152.136
19-904	151.007, 152.041, 152.042
19-904.01	152.005
19-905	151.007
19-907 - 19-910	32.02
19-907	32.02, 152.065
19-908	32.01, 32.02
19-909	152.135
19-910	32.02
19-911	32.02
19-913	151.110, 152.135, 152.999
19-914	151.005, 152.004
19-924 - 19-929	32.01
19-929	32.01
19-1101 <i>et seq.</i>	31.03
19-1101	31.04
19-1102	31.03
19-1103	31.03
19-1104	31.03
19-1301 - 19-1304	34.07
19-1302	34.07
19-1305	32.15
19-1309	34.60
19-1310	34.60
19-1311	34.60
19-1312	34.60
19-2106	51.02
19-2417	92.29
19-2701	52.16
19-2901 - 19-2909	34.03

<i>Neb. RS Cite</i>	<i>Code Section</i>
19-3101	30.02
19-3701	30.37
20-203	93.29
21-1316.01	34.10
23-122	31.03
23-122	31.03
23-3513	34.11
25-1801	50.05
25-21,275	50.05
25-21,276	50.05
25-21,277	50.05
25-21,278	50.05
Ch. 27	90.01
Ch. 28, Art. 3	112.18
Ch. 28, Art. 4	112.18
28-431	130.07
28-515.02	50.04
28-520	93.29
28-521	93.29
28-523	94.02
Ch. 28, Art. 7	112.18
Ch. 28, Art. 8	112.18
28-818	130.03
Ch. 28, Art. 10	112.18
Ch. 28, Art. 11	112.18
Ch. 28, Art. 12	112.18
28-1245	90.05
28-1247	90.01
28-1321	91.24, 130.05
28-1321(1)	130.04
32-532	30.15
32-560 - 32-572	30.01
32-560	30.01, 30.02
32-628 - 32-631	34.61
32-802	34.61
32-1308	30.01
33-141 - 33-143	31.03
35-106	110.02
39-301	130.02
39-302	130.02
39-835 - 39-842.01	34.11
39-2512	31.07
46-1212	92.10
48-1503	34.02
49-801(16)	10.05
49-1408	33.46
49-1425	33.46
49-1499.04	33.46
49-14,102	33.46
49-14,103.02	33.46
49-14,103.03	33.46
49-14,103.05	33.46
49-14,103.06	33.46

Neb. RS Cite***Code Section***

51-201	34.61
51-501	34.61
53-102	112.15, 112.30
53-103	112.01
53-118	112.29
53-124	112.02
53-124(5)	112.02
53-124.03	112.18
53-125	112.18
53-131	112.02
53-131(2)	112.02
53-132(4)	112.02
53-133	112.02
53-134	112.02
53-134.03	112.02
53-135	112.20
53-135.01	112.02, 112.20
53-146	112.03
53-147	112.27
53-148	112.18
53-174	112.25
53-177	112.16
53-178	112.17
53-179	112.28
53-180	112.23
53-183	112.24
53-184	112.26
53-186	112.31
53-186(2)	112.31
53-1,101	112.21
53-1,102	112.22
53-1,114	112.04
53-1,121	112.32
54-601	93.30
54-602	93.30
54-603	93.45 - 93.47, 93.51
54-605	93.26, 93.49
54-606	93.25
54-617	93.29
54-618	93.29
54-619	93.29
54-620	93.29
54-621	93.29
54-624	93.29
60-320	130.07
60-329 - 60-339	34.64
Ch. 60, Art. 6	70.01
60-606 - 60-676	70.01
60-680	Ch. 70, Ch. 71
60-681	Ch. 71.01
60-683	Ch. 70
60-6,114	72.15
60-6,119	71.05

Neb. RS Cite***Code Section***

60-6,165	72.30
60-6,166	72.07, 72.09
60-6,211.08	112.31
60-6,250	92.51
60-6,288 - 60-6,299	150.30
60-6,288(2)(j)	92.51
60-6,294(10)	92.51
60-60,355	74.01-74.03
60-1901 - 60-1911	130.07
60-1901	130.07
60-1902	130.07
60-1903	130.07
60-1903.01	130.07
60-1905	130.07
60-1906	130.07
60-1907	130.07
60-1908	130.07
60-1909	130.07
70-1601	50.01
70-1601 - 70-1615	50.04
70-1602 <i>et seq.</i>	50.03
71-1637	34.61
71-4406	93.27
71-4412	93.31
71-4412	93.51
71-6406	140.01-140.64
73-101 <i>et seq.</i>	34.02
77-1601	34.63
77-1601.02	34.63
77-1606	34.61, 34.63
77-2304	34.09
77-2337	34.07, 34.10
77-3241	34.07, 34.10
77-2341(1)	34.10
77-2362 - 77-2364	34.08
77-2366	34.09
77-3442 - 77-3444	34.61
77-3442	34.60 - 34.62, 94.01
77-3443	34.61
77-3444	34.61
81-145 - 81-162	34.02
81-839	31.08
81-2005	Ch. 70
81-3401 - 81-3455	31.09
81-3423	92.10
81-3445	92.10
81-3447	150.65
81-3449 - 81-3453	92.10
81-3449	150.65
81-3449(3)	92.10
81-3449(4)	92.10
81-3449(9)	92.10
81-3449(11)	92.10

<i>Neb. RS Cite</i>	<i>Code Section</i>
81-3449(13)	92.10
81-3449(14)	92.10
81-3453(3)	92.10
81-3453(4)	92.10
81-3453(6)	92.10
81-3453(7)	92.10
81-3453(10)	92.10
81-3453(12)	92.10
81-3453(13)	92.10
81-3453(15)	92.10
81-3538	150.65
81-3541	150.65
84-304	34.03
84-712	31.03, 31.04
84-1201 - 84-1227	31.03
86-331.01	50.05

REFERENCES TO 1994 CODE

<i>1994 Code Section</i>	<i>2006 Code Section</i>
1-101	30.17
1-102	30.15
1-202	31.02
1-203	31.05
1-204	31.03
1-205	31.04
1-206	31.04
1-207	31.04
1-208	31.06
1-209	31.08
1-210	31.09
1-211	31.07
1-212	31.10
1-301	33.30
1-302	33.31
1-401	11.01
1-511	33.03
1-512	33.04
1-513	33.01
1-514	33.02
1-603	30.31
1-604	30.33
1-605	30.33
1-608	30.36
1-609	30.37
1-801	34.30
1-805	34.31
1-807	34.36
1-814	34.05
1-817	34.04
1-818	34.04
1-819	34.06
1-820	34.07
1-822	34.10
1-823	34.11
1-824	34.64
1-901	33.45
1-902	33.46
2-103	32.02
3-101	32.15
3-102	52.01
3-103	52.15
3-104	52.16
3-105	52.17
3-106	52.18
3-107	52.18
3-108	52.19
3-109	52.20
3-110	52.21
3-111	52.22

1994 Code Section***2006 Code Section***

3-112	52.23
3-113	52.24
3-114	52.25
3-115	52.26
3-116	52.27
3-117	52.28
3-118	52.29
3-119	52.30
3-120	52.31
3-121	52.32
3-122	52.32
3-201	32.16
3-202	53.01
3-203	53.02
3-204	53.03
3-205	53.20
3-206	53.20
3-207	53.20
3-208	53.20
3-209	53.21
3-210	53.21
3-211	53.21
3-212	53.21
3-213	53.21
3-214	53.21
3-215	53.22
3-216	53.22
3-217	53.22
3-218	53.22
3-219	53.22
3-220	53.22
3-221	53.22
3-222	53.22
3-223	53.22
3-224	53.23
3-225	53.24
3-226	53.24
3-227	53.24
3-228	53.25
3-229	53.26
3-230	53.27
3-231	53.27
3-232	53.24
3-233	53.28
3-234	53.04
3-235	53.04
3-236	53.04
3-237	53.05
3-238	53.99
3-239	53.40
3-240	53.41
3-242	53.43
3-243	53.44

1994 Code Section***2006 Code Section***

3-244	53.45
3-245	53.06
3-303	50.05
3-304	50.06
3-305	50.04
3-401	94.01
3-402	94.02
4-101	91.01
4-102	91.02
4-104	91.03
4-201	91.20
4-202	91.20
4-203	91.21
4-204	91.24
4-205	91.22
4-206	91.23
4-301 - 4-303	51.01
4-304	51.02
4-305	51.03
4-306	51.04
4-307	51.05
4-308	51.06
4-309	51.07
4-310	51.08
5-101	70.01
5-102	71.01
5-103	71.05
5-202	71.21
5-203	70.02
5-204	70.03
5-301	72.02
5-302	72.03
5-303	72.04
5-304	72.05
5-305	72.05
5-306	72.09
5-307	72.11
5-308	72.12
5-309	72.14
5-320	72.30
6-101	93.45
6-102	93.47
6-103	93.25
6-104	93.27
6-105	93.26
6-106	93.28
6-107	93.32
6-108	93.30
6-109	93.50
6-110	93.31
6-111	93.27
6-112	93.51
6-113	93.29

1994 Code Section***2006 Code Section***

6-114	93.29
6-115	93.29
6-116	93.29
6-201	93.01
6-301	130.04
6-302	130.06
6-304	130.01
6-305	130.03
6-306	130.02
7-205	90.05
7-206	90.09
8-101	92.01
8-102	92.02
8-103	92.11
8-104	92.03
8-105	92.04
8-106	92.07
8-201	92.25
8-202	92.26
8-203	92.27
8-204	92.28
8-205	92.29
8-301	92.45
8-302	92.47
8-303	92.48
8-304	92.49
8-305	92.50
8-306	92.51
9-101	150.01
9-102	150.02
9-103	150.11
9-201	150.30
9-202	150.31
9-301	150.45
9-302	150.46
9-303	150.47
9-304	150.48
9-305	150.49
9-306	150.50
10-101	112.01
10-102	112.15
10-103	112.16
10-104	112.17
10-105	112.18
10-106	112.19
10-108	112.20
10-110	112.21
10-111	112.22
10-112	112.23
10-113	112.24
10-114	112.25
10-115	112.26
10-116	112.27

1994 Code Section***2006 Code Section***

10-117	112.28
10-118	112.29
10-119	112.30
10-120	112.31
10-121	112.32
10-122	112.03
10-123	112.04
10-201	111.01
10-202	111.02
10-301	110.01
10-302	110.02
10-303	110.03
10-304	110.04
10-305	110.05

REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
1996-7.1	09-09-1996	53.29
1997-7.1, § 2	07-14-1997	152.001 – 152.005, 152.007 – 152.010, 152.025, 152.026, 152.040 – 152.042, 152.044 – 152.052, 152.065 – 152.077, 152.090 – 152.093, 152.105 – 152.108, 152.120, 152.135 – 152.137, 152.999
1997-7.1, § 3	07-14-1997	151.001 – 151.009, 151.025 – 151.031, 151.045, 151.046, 151.060 – 151.072, 151.085 – 151.095, 151.110 – 151.112, 151.125, 151.999
1997-7.1, § 4	07-14-1997	151.010, 152.011
1997-8.14	08-11-1997	50.03
1997-8.2	08-11-1997	31.01
1997-8.3	08-11-1997	32.03
1997-8.4	08-11-1997	30.30
1997-8.5	08-11-1997	30.32
1997-8.6	08-11-1997	30.34
1997-8.7	08-11-1997	30.35
1997-8.8	08-11-1997	30.38
1997-10.2	11-17-1997	112.28
1998-2.1	02-09-1998	90.01 – 90.04, 90.08, 90.10
1998-4.2	04-13-1998	52.18, 53.22
1998-4.3	04-13-1998	51.08
1998-11.1	11-09-1998	33.48
1999-7.11	07-12-1999	150.65
1999-7.13	07-12-1999	30.01
1999-7.6	09-15-1999	50.07
1999-7.18	07-12-1999	34.35
1999-7.19	07-12-1999	34.62
1999-7.22	07-12-1999	34.60
1999-7.25	07-12-1999	34.09
1999-7.26	07-12-1999	34.02
1999-7.27	07-12-1999	92.05
1999-7.28	07-12-1999	92.10
1999-9.1	09-15-1999	90.06
2000-1.1	03-13-2000	52.20
2000-1.2	01-10-1999	52.45, 53.46
2000-1.3	01-10-1999	53.42
2000-7.1	07-10-2000	112.02
2000-7.4	07-10-2000	34.63
2000-7.5	07-10-2000	34.61
2000-7.7	07-10-2000	130.07
2000-7.8	07-10-2000	112.31
2000-7.9	07-10-2000	30.16
2000-7.10	07-10-2000	10.99
2000-9.1	09-13-2000	90.07
2000-9.2	09-13-2000	152.121, 152.122

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
2000-10.1	10-10-2000	93.17
2001-2.1	03-12-2001	32.01
2001-4.1	05-21-2001	71.20, Ch. 73, Sch. I
2001-6.1	06-11-2001	92.46
2001-6.2	06-11-2001	71.07
2001-11.1	11-12-2001	50.02
2002-6.1	06-10-2002	33.47
2003-5.1	05-12-2003	152.053
2003-5.2	05-12-2003	152.999
2003-9.1	09-17-2003	152.043
2003-10.1	10-20-2003	152.006, 152.026
2003-10.3	10-20-2003	30.02
2003-10.5	10-20-2003	34.33
2003-10.6	10-20-2003	34.34
2003-10.7	10-20-2003	34.37
2003-10.8	10-20-2003	34.03
2003-10.9	10-20-2003	34.08
2004-2.2	02-09-2004	92.05, 92.06
2004-5.1	05-17-2004	93.01 – 93.16
2004-8.1	08-16-2004	150.12 – 150.14
2004-10.1	11-15-2004	151.113
2004-12.1	12-13-2004	151.009
2005-2.1	02-16-2005	152.026, 152.043, 152.047
2005-5.1	07-11-2005	70.04
2005-6.1	06-13-2005	33.47
2005-8.1	08-15-2005	152.043, 152.046
2005-11.1	11-14-2005	150.01 – 150.11
2005-11.2	11-14-2005	33.47
2005-12.1	12-12-2005	112.28
2005-12.2	12-12-2005	150.01, 150.02
2006-5.6	05-15-2006	35.01 – 35.08
2006-6.1	08-16-2006	112.28
2006-10.2	10-16-2006	50.02, 52.20.5
2006-11.1	11-13-2006	130.10
2007-1.1	01-08-2007	151.010, 151.026, 151.028 – 151.031, 151.045 – 151.046, 151.073 – 151.074, 151.092
2007-1.2	02-12-2007	152.026, 152.040 – 152.041, 152.043 – 152.052, 152.065, 152.070, 152.073, 152.076
2007-5.1	05-14-2007	93.45, 93.47
2007-7.2	07-16-2007	150.10
2007-10.1	12-10-2007	130.06
2008-1.1	03-10-2008	152.120
2008-1.3	03-10-2008	90.06
2008-2.1	04-14-2008	110.04 – 110.06
2008-2.2	04-14-2008	110.03 - 110.05, 110.07 – 110.09
2008-3.1	03-10-2008	150.10
2008-5.1	08-11-2008	151.086 – 151.087, 151.089, 151.091 – 151.092
2008-6.3	06-09-2008	90.07
2008-10.1	12-08-2008	52.45
2008-10.2	12-08-2008	53.46
2008-10.3	10-13-2008	33.47

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
2009-7.1	09-14-2009	110.01, 111.01 – 111.02
2009-7.2	09-14-2009	150.04
2009-11.1	01-11-2010	110.01, 110.03
2009-12.2	02-08-2010	150.04
2010-2.1	07-12-2010	152.105, 152.107
2010-9.1	11-08-2010	93.52 – 93.55
2010-12.1	12-13-2010	152.053
2011-2.1	02-14-2011	33.47
2011-5.1	05-13-2011	152.048
2011-6.1	08-15-2011	112.28
2011-8.1	10-10-2011	152.026 – 152.026.75, 152.043, 152.072, 152.094
2011-8.3	11-14-2011	74.01 – 74.03
2011-12.1	12-12-2011	33.47
2012-3.1	05-14-2012	154.01 – 154.12
2012-5.2	05-14-2012	110.03
2012-8.1	10-08-2012	93.01, 93.16
2012-12.1	12-10-2012	33.47
2012-12.2	02-11-2013	152.053
2013-2.1	02-11-2013	33.01
2013-8.1	10-14-2013	140.01 – 140.64
2013-8.2	10-14-2013	141.01 – 141.109
2013-8.3	10-14-2013	142.01 – 142.09
2013-8.4	10-14-2013	143.01 – 143.07
2013-8.5	10-14-2013	144.01 – 144.03
2013-8.6	10-14-2013	145.01 – 145.07
2013-8.7	10-14-2013	146.01 – 146.02
2013-8.8	10-14-2013	147.01 – 147.06
2013-10.1	12-09-2013	130.06

INDEX

INDEX

1-WAY TRAFFIC, 71.02

A-1 AGRICULTURAL DISTRICT, 152.044

ABANDONED AUTOMOBILES, 130.07

ABANDONMENT, 34.60

AGRICULTURAL DISTRICT (A-1), 152.044

AIR GUNS, BB GUNS, 130.09

ALCOHOLIC BEVERAGES

- Citizen complaints, 112.04

- Definitions, 112.01

- Inspections, 112.03

- Licenses; municipal powers and duties, 112.02

- Occupation Tax, 110.01

- Regulations

 - Credit sales, 112.24

 - Drinking on public property; possession of open alcoholic beverage container, 112.31

 - Dwellings, 112.17

 - Employer, 112.22

 - Hiring minors, 112.30

 - Hours of sale, 112.28

 - License displayed, 112.18

 - License required, 112.15

 - Licensee requirements, 112.19

 - Liquor license renewal, 112.20

 - Location, 112.16

 - Minors and incompetents, 112.23

 - Minor's presence, 112.27

 - Original package, 112.26

 - Owner of premises, 112.21

 - Removal of intoxicated persons from public or quasi-public property, 112.32

 - Sanitary conditions, 112.29

 - Spiking beer, 112.25

ALLOCATION, 34.60

ALL-PURPOSE LEVY, 34.60

ALL-TERRAIN AND UTILITY-TYPE VEHICLES

- All-terrain vehicle; utility-type vehicle; operation on Village streets; permitted, 74.02

- All-terrain vehicle; utility-type vehicle; restrictions on operation, 74.03

- Definitions, 74.01

ANIMALS

- Animals on premises as of effective date, 93.16
- Application for permit, 93.07
- Calculating minimums and maximums; exclusions, 93.04
- Cats
 - Impounding, 93.55
 - License required; fees; application; rabies certificate, 93.52
 - License tags; duplicates, 93.53
 - Running at large, 93.54
- Dead animals; duty to remove, 93.13
- Dead animals; unlawful acts, 93.14
- Definitions, 93.01
- Dogs
 - Barking, 93.32
 - Capture impossible, 93.28
 - Dangerous dogs, 93.29
 - Impounding, 93.31
 - Liability of owner, 93.30
- Licensing
 - Dog guides, hearing aid dogs, and service dogs; exempt from license tax, 93.46
 - Kennels; license, 93.51
 - License required, 93.45
 - License tags, 93.47
 - Removal of tags, 93.50
 - Uncollared dogs, 93.49
 - Wrongful licensing, 93.48
- Owner defined, 93.25
- Rabies threat; proclamation; inspection, 93.27
- Running at large, 93.26
- Exemptions, 93.06
- Issuance of permit, 93.08
- Large animal permit requirements, 93.02
- Offensive odors from enclosures in which animals are kept, 93.15
- Permit fees, 93.09
- Revocation and suspension of permit, 93.10
- Running at large prohibited, 93.12
- Sanitary regulations, 93.05
- Small animal and fowl permit requirements, 93.03
- Term of permit; not transferable, 93.11
- Unusual animals prohibited, 93.17

ANIMALS; DEAD, 51.03

ANNUAL AUDIT; FINANCIAL STATEMENTS, 34.03

ANNUAL BUDGET (See FINANCE AND REVENUE)

APPLIANCES IN YARD, 130.05

APPOINTED VILLAGE OFFICIALS

- Appointment; removal, 31.01
- Merger of offices, 31.02
- Regular Engineer, 31.08
- Special Engineer, 31.09
- Village Attorney, 31.06
- Village Clerk, 31.03
- Village Clerk/Treasurer position created, 31.05
- Village Treasurer, 31.04
- Village Utilities Superintendent, 31.07
- Zoning Administrator, 31.10

APPROPRIATION BILL, 34.36

ATTORNEY, 31.06

AUDIT; FINANCIAL STATEMENTS, 34.03

AUTOMOBILES; ABANDONED, 130.07

B-1 LOCAL BUSINESS DISTRICT, 152.048

B-2 CENTRAL BUSINESS DISTRICT, 152.049

BB GUNS, 130.09

BEER (See ALCOHOLIC BEVERAGES)

BIDDING, 34.02

BOARD CHAIRPERSON (See ELECTED OFFICIALS; ORDINANCES)

BOARD OF ADJUSTMENT, 32.02

BOARD OF HEALTH, 32.03, 91.01, 91.02, 91.03, 91.21, 91.22

BOARD OF TRUSTEES (See ELECTED OFFICIALS; ORDINANCES)

BOARDS (See DEPARTMENTS, BOARDS AND COMMISSIONS)

BOND ISSUES, 34.11

BONDS AND OATHS

- Bonds; form, 33.30
- Oath of office; Village officials, 33.31

BUDGET (See FINANCE AND REVENUE, 34)

BUILDING CODES

- Building Code, 140
- Residential Code, 141

BUSINESS REGULATIONS (See 110, 111, 112)

CATS (See ANIMALS)

CATV OCCUPATION TAX, 110.03

CENTRAL BUSINESS DISTRICT (B-2), 152.049

CERTIFICATES OF DEPOSIT, 34.09

CLAIMS, 34.04

CLERK, 31.03

CLERK/TREASURER POSITION CREATED, 31.05

CODE OF ORDINANCES; GENERAL PROVISIONS

- Application to future ordinances, 10.03

- Captions, 10.04

- Definitions, 10.05

- General penalty, 10.99

- Interpretation, 10.02

- Reference to offices, 10.09

- Reference to other sections, 10.08

- Rules of interpretation, 10.06

- Severability, 10.07

- Title of code, 10.01

COMMISSIONS (See DEPARTMENTS, BOARDS, AND COMMISSIONS)

COMPENSATION

- Appointed officials; salary ranges, 33.47

- Conflict of interest, 33.46

- Elected officials; salaries, 33.48

- Village officials, 33.45

COMPREHENSIVE PLAN, 153.01

CONNECTION FEES, 50.07

CONTRACTS AND PURCHASES, 34.02

CORPORATE SEAL, 11.01

COUNTY HEALTH BOARD, 91.03

CROSSWALKS, 71.04

DEAD ANIMALS, 51.03

- Duty to remove, 93.13

- Unlawful acts, 93.14

DEAD OR DISEASED TREES, 91.24

DEPARTMENTS, BOARDS AND COMMISSIONS

- Board of Adjustment, 32.02
- Board of Health, 32.03
- Planning Commission, 32.01

DEPOSIT OF FUNDS, 34.08

DESIGN STANDARDS (See SUBDIVISION REGULATIONS)

DISCONTINUATION OF SERVICE, 50.03

DISEASED TREES, 91.24

DISORDERLY CONDUCT, 130.01

DISTRICT BOUNDARIES, 152.040 - 152.042

DISTURBING THE PEACE, 130.03

DIVERSION OF SERVICES, 50.05

DOGS (See ANIMALS)

ELECTED OFFICIALS; ORDINANCES

- Board of Trustees
 - Organization, 30.15
 - Powers and duties, 30.16
 - Village Board Chairperson; selection and duties, 30.17
- Elected officials; vacancy, 30.01
- Ordinances, Resolutions, and Motions
 - Amendments and revisions, 30.38
 - Certificate of publication or posting, 30.36
 - Effective date; emergency ordinances, 30.37
 - Grant of power, 30.30
 - Introduction of ordinances, 30.32
 - Ordinances; style, title, 30.33
 - Procedure for resolutions and motions, 30.31
 - Publication or posting, 30.35
 - Reading and passage of ordinances, resolutions, orders, bylaws, 30.34
- Vacancy due to unexcused absences, 30.02

EMERGENCY VEHICLES, 72.15

ENGINE BRAKES PROHIBITED, 71.07

ENGINEER

- Regular, 31.08
- Special, 31.09

EXPENDITURES, 34.05

EXTRAORDINARY LEVIES, 34.60

FEES (Adopted by Resolution)

FLOOD HAZARD DISTRICT, 152.053

FINANCE AND REVENUE

- Annual audit; financial statements, 34.03

Annual Budget

- Adopted budget statement; filing; certification of tax amount, 34.35
- Appropriation bill, 34.36
- Budget procedures, 34.31
- Budget revision, 34.37
- Expenditures prior to adoption of budget, 34.32
- Fiscal year, 34.30
- Proposed budget statement; contents; availability; correction, 34.33
- Proposed budget statement; hearing; adoption; certification of tax amount, 34.34

- Bond issues, 34.11

- Certificates of deposit; time deposits; conditions, 34.09

- Claims; warrants, 34.04

- Contracts and purchases; bidding and other requirements, 34.02

- Deposit of funds, 34.08

- Expenditures, 34.05

- Investment of funds, 34.10

- Public funds defined, 34.01

- Sinking funds, 34.07

- Special assessment fund, 34.06

Tax Levies

- All-purpose levy; allocation; abandonment; extraordinary levies, 34.60
- Motor vehicle tax, 34.64
- Property tax; certification of amount, 34.62
- Property tax levy and request; authority to set, 34.63
- Property tax levy; maximum; authority to exceed, 34.61

FINANCIAL STATEMENTS, 34.03

FIRE HYDRANTS AND STATIONS, 52.24, 72.07

FIRE REGULATIONS

Fireworks

- Banning; emergencies, 90.09
- Definitions, 90.01
- Fees received; deposit in general fund, 90.10
- Location of stand; generally, 90.08
- Permissible sale and use; hours of sale; use restricted, 90.06
- Retail sale; license required; fee, 90.07
- Sale and use of bottle rockets, skyrockets, and like devices prohibited; unlawful acts, 90.03
- Unlawful acts; enumerated, 90.02
- Unlawful discharging, firing, launching, or throwing prohibited, 90.04
- When prohibition not applicable, 90.05

FIREARMS; DISCHARGE OF, 130.08

FISCAL YEAR, 34.30

FLOOD HAZARD DISTRICT (F), 152.053

FUEL GAS CODE (See 143)

FUNDS (See FINANCE AND REVENUE)

GARBAGE AND REFUSE (See Also PUBLIC WORKS)

- Collection; authority, 51.04

- Collection; lien, 51.07

- Collection; notice and removal, 51.05

- Collection; nuisance, 51.06

- Dead animals, 51.03

- Definitions, 51.01

- Municipal garbage disposal facility; user fees, 51.08

- Prohibition, 51.02

GENERAL PROVISIONS RELATING TO ADMINISTRATION OF BUILDING CODES

- General Provisions Relating to Administration of Building Codes

 - Appeals, 145.01

 - Building Official; designation, 145.01

 - Building permit; duplicate to County Assessor, 145.04

 - Construction noise; limitation of hours, 145.06

 - Permits; sewer capacity, 145.03

 - Protection of excavations, 145.05

 - Receptacles for building rubbish and demolition debris, 145.07

HAWKERS (See PEDDLERS AND HAWKERS)

HEALTH AND SAFETY

- County Health Board, 91.03

- Enforcement official, 91.02

- Health regulations, 91.01

- Nuisances

 - Abatement procedure, 91.21

 - Adjoining land owners; intervention before trial, 91.23

 - Dead or diseased trees, 91.24

 - Definition, 91.20

 - Jurisdiction, 91.22

- Trees, 92.11

HEAVY INDUSTRIAL DISTRICT (I-2), 152.051

HIGHWAY OVERLAY DISTRICT (HO), 152.052

HO HIGHWAY OVERLAY DISTRICT, 152.052

I-1 LIGHT INDUSTRIAL DISTRICT, 152.050

I-2 HEAVY INDUSTRIAL DISTRICT, 152.051

INVESTMENT, 34.10

LEISURE AND RECREATION

Parks

Injury to property, 94.02

Operation and funding, 94.01

LIGHT INDUSTRIAL DISTRICT (I-1), 152.050

LIMITS; VILLAGE, 11.02

LITTER; STAGNANT WATER, 130.06

LOCAL BUSINESS DISTRICT (B-1), 152.048

MECHANICAL CODE (See 142)

MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2), 152.046

MEETINGS

Change in office, 33.03

Organizational meetings, 33.04

Special meetings, 33.02

When; where; quorum, 33.01

METER TAMPERING, 50.04

MINIMUM HOUSING CODE

Appeals, 148.11

Definitions, 148.06

Enforcement, 148.04

Heating; ventilation of equipment, 148.08

Placarding, 148.10

Purpose, 148.02

Sanitation, 148.07

Scope, 148.03

Substandard Buildings

Defined, 148.09

Nuisance, 148.05

Title, 148.01

Violations, 148.12

MOTIONS (See ELECTED OFFICIALS)

MOTOR VEHICLE TAX, 34.64

MOVING OF BUILDINGS

Inspection; release of deposit, 146.02

Regulations, 146.01

MULTIPLE FAMILY RESIDENTIAL DISTRICT (R-3), 152.047

NUISANCES (See HEALTH AND SAFETY)

OATHS (See BONDS AND OATHS, 33)

OCCUPATION TAXES

Occupation Tax

- Alcoholic Liquor; Refuse Collection; Levy amount, 110.01
- Certificates, 110.08
- Collection date, 110.07
- Community antennae television service; annual occupation tax, 110.03
- Failure to pay, 110.09
- Fire Department fund, 110.02
- Telecommunications Occupation Tax, 110.04
- Telecommunications Occupation Tax; credit; payment, 110.05
- Telecommunications Occupation Tax; reports; contents, 110.06

OFFENSES GENERALLY

- Abandoned automobiles, 130.07
- Appliances in yard, 130.05
- Discharge of firearms, 130.08
- Disorderly conduct, 130.01
- Disturbing the peace, 130.03
- Maintaining a nuisance, 130.04
- Obstruction of public ways, 130.02
- Sexual predator residency restrictions; definitions; prohibited location of residence; measuring of distance; penalties; exceptions, 130.10
- Slingshots, air guns, BB guns, 130.09
- Weeds; litter; stagnant water, 130.06

OFFICIAL CORPORATE SEAL, 11.01

OFFICIALS; APPOINTED (See APPOINTED VILLAGE OFFICIALS)

OFFICIALS; ELECTED (See ELECTED OFFICIALS)

OPERATION AND MAINTENANCE FUND, 53.41

ORDINANCES (See CODE OF ORDINANCES and ELECTED OFFICIALS)

PARKING REGULATIONS (See TRAFFIC CODE)

PARKS (See LEISURE AND RECREATION)

PEDDLERS AND HAWKERS

- Definition; regulation; qualifications; registration fee, 111.01
- Hours of solicitation, 111.02

PLANNING COMMISSION, 32.01

PLAT SPECIFICATIONS (See SUBDIVISION REGULATIONS)

PLUMBING CODE (See 144)

POLLUTION, 52.25

PROPERTY (See PUBLIC WAYS AND PROPERTY)

PROPERTY TAX LEVY, 34.61

PUBLIC WAYS AND PROPERTY

Municipal Property

- Acquisition of property; construction; elections, when required, 92.07
- Acquisition of real property; appraisal, 92.08
- Acquisition of real property; public meeting, 92.09
- Definition, 92.01
- Maintenance and control, 92.02
- Obstructions, 92.03
- Overhanging branches, 92.04
- Public works involving architecture or engineering; requirements, 92.10
- Sale and conveyance of personal property, 92.06
- Sale and conveyance of real property, 92.05
- Trees, 92.11

Sidewalks

- Construction at municipal direction, 92.29
- Construction at owner's initiative, 92.28
- Kept clean, 92.25
- Maintenance, 92.26
- Repair, 92.27

Streets

- Cutting into paving, curb, or sidewalk, 92.46
- Driving stakes, 92.48
- Excavation, 92.47
- Harmful liquids, 92.50
- Heavy equipment; special tires, 92.51
- Mixing concrete, 92.49
- Names and numbers, 92.45

PUBLIC WORKS (See Also GARBAGE AND REFUSE; SEWERS; UTILITIES; WATER)

- Connection fees; generally, 50.07
- Denial of service; when prohibited, 50.01
- Discontinuance of service; notice procedure, 50.03
- Diversion of services; civil action, 50.05
- Diversion of services, meter tampering, unauthorized reconnection, prohibited; evidence, 50.04
- Lien, 50.06
- Utility bills; collection, 50.02

R-1 SINGLE FAMILY RESIDENTIAL DISTRICT, 152.045

R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT, 152.046

R-3 MULTIPLE FAMILY RESIDENTIAL DISTRICT, 152.047

RECREATION (See LEISURE AND RECREATION)

REFUSE (See GARBAGE AND REFUSE)

REGULAR ENGINEER, 31.08

RESIDENTIAL CODE (See 141)

RESOLUTIONS (See ELECTED OFFICIALS)

REVENUE (See FINANCE AND REVENUE)

SAFETY (See HEALTH AND SAFETY)

SALES AND USE TAX

- Administration of tax, 35.02
- Certification to Tax Commissioner, 35.07
- Certified map to Tax Commissioner, 35.06
- Collection of tax, 35.08
- Deposit of proceeds, 35.04
- Effective date, 35.03
- Governing provisions; Nebraska Revenue Act of 1967, 35.05
- Sales and use tax imposed, 35.01

SCHOOLS, THEATERS, 72.08

SEAL, 11.01

SEWER DEPARTMENT; OPERATION AND FUNDING, 32.16

SEWERS (See Also PUBLIC WORKS)

- Application for permit, 53.02
- Compliance; inspections, 53.04
- Definitions, 53.01
- Penalty, 53.99
- Precedence, 53.06
- Rates and Charges
 - Operation and Maintenance Fund; accounts, 53.41
 - Sewer rates, 53.46
 - Surcharges, 53.43
 - User charge; notification, 53.45
 - User charge review, 53.44
 - User charge system; purpose, 53.40
 - User charge system; rate setting, 53.42
- Regulations, Sewer
 - Building sewer installation, 53.22
 - Capping of building sewers, 53.29
 - Control manholes/sampling stations, 53.27
 - Destruction of property, 53.28
 - Grease, oil, and sand interceptors; when required, 53.25
 - Hazardous and prohibited discharges, 53.24
 - Preliminary treatment or flow equalizing facilities; maintenance by owner, 53.26
 - Private sewage disposal system, 53.21
 - Prohibited discharges; stormwater, surface water, groundwater, cooling water, and process water, 53.23
 - Public sewers required, 53.20
- Sewer contract, 53.03
- Sewer department; operation and funding, 32.16
- Violation; notice and liability, 53.05

SEXUAL PREDATOR RESIDENCY (See OFFENSES GENERALLY)

SIDEWALKS (See PUBLIC WAYS AND PROPERTY)

SIGNS; SIGNAL, 71.05

SINGLE FAMILY RESIDENTIAL DISTRICT (R-1), 152.045

SINKING FUNDS, 34.07

SLINGSHOTS, AIR GUNS, BB GUNS, 130.09

SNOW EMERGENCY, 70.04

SOLICITATION (See 111)

SPECIAL ASSESSMENT, 34.06

SPECIAL ENGINEER, 31.09

SPEED LIMITS, Ch. 73, Sch. I

General speed limit, 71.20

Near schools, 71.21

STAGNANT WATER, 130.06

STANDARDS; VILLAGE (See VILLAGE STANDARDS)

STOP SIGNS, 71.06

STREET INTERSECTIONS, 72.09

STREETS (See PUBLIC WAYS AND PROPERTY)

SUBDIVISION REGULATIONS

Amendments, 151.007, 151.125

Building permits, 151.006

Conflict, 151.005

Definitions, 151.009

Design Standards

Alleys, 151.065

Blocks, 151.067

Conformance to the Comprehensive Plan, 151.060

Conformance to the street plan, 151.061

Cul-de-sacs; dead-end streets, 151.063

Easements, 151.069

Intersections and jogs, 151.064

Location of water and sewer, 151.070

Lot access, 151.066

Minimum lot dimensions, 151.068

Provisions for large parcels, 151.072

Public sites and open spaces, 151.071

Street classification table, 151.062

SUBDIVISION REGULATIONS (Cont'd)

Enforcement

Fees, 151.112

Filing, 151.111

Street plan, 151.110

Subdivision tax; amount of tax; deposit with Village Clerk/Treasurer, 151.113

Interpretation, 151.004

Jurisdiction, 151.002

Modifications, 151.008

Penalty, 151.999

Plat Specifications

Final plat, 151.046

Preliminary plat, 151.045

Powers, 151.003

Procedure for Subdivision Approval

Final plat, 151.027

Minor subdivision replat, 151.028

Plats outside corporate limits, 151.029

Pre-application procedure, 151.025

Preliminary plat, 151.026

Professional assistance, 151.031

Submission to the School Board, 151.030

Publication, 151.010

Purpose, 151.001

Subdivision Improvements

Curb and gutter, 151.091

Grading, 151.090

Monuments, 151.085

Other improvements, 151.094

Sanitary lines, 151.087

Sidewalks, 151.089

Specifications, 151.093

Storm drains, 151.088

Surfacing, 151.092

Village control, 151.095

Water lines, 151.086

TAX LEVIES (See FINANCE AND REVENUE and OCCUPATION TAXES)

TELECOMMUNICATIONS

Credit; Payment, 110.04

Occupation Tax, 110.05

Reports, 110.06

TIME DEPOSITS, 34.09

TRAFFIC CODE

1-way traffic, 71.02

Alleys; restrictions, 72.05

Areas of prohibited parking, 72.04

Brakes and turned wheels required, 72.01

Crosswalks, 71.04

Curb parking; painting of curbs, 72.11

TRAFFIC CODE (Cont'd)

- Current registration, 72.13
- Definitions, 70.01
- Designation of type of parking, 72.03
- Display or repair, 72.12
- Emergency vehicles, 72.15
- Engine brakes prohibited, 71.07
- Fire hydrants and stations, 72.07
- Obstructing traffic, 72.10
- Parallel parking required; exceptions, 72.02
- Police enforcement, 70.02
- Refusal to obey, 70.03
- Removal of illegally parked vehicles, 72.30
- Schools, theaters, 72.08
- Signs; signal, 71.05
- Snow emergency, 70.04
- Speed Limits, Ch. 73, Sch. I
 - General speed limit, 71.20
 - Near schools, 71.21
- Stop signs, 71.06
- Street intersections, 72.09
- Time limit, 72.14
- Traffic lanes; designation, 71.03
- Traffic schedules
 - Speed limits, Ch. 73, Sch. I
- Truck routes, 71.01
- Unloading; freight vehicles, 72.06

TRAFFIC SCHEDULES

- Speed limits, Ch. 73, Sch. I

TRASH (See GARBAGE AND REFUSE)

TREASURER, 31.04

TREES, 92.11

TREES; DEAD OR DISEASED, 91.24

TRUCK ROUTES, 71.01

UNSAFE BUILDINGS

- Definition, 147.01
- Determination; appeal, 147.04
- Determination; notice, 147.03
- Emergency, 147.05
- Prohibited, 147.02
- Removal by Village; special assessment, 147.06

UTILITIES GENERALLY (See Also PUBLIC WORKS)

- Connection fees; generally, 50.07
- Denial of service; when prohibited, 50.01
- Discontinuance of service; notice procedure, 50.03
- Diversion of services; civil action, 50.05
- Diversion of services, meter tampering, unauthorized reconnection, prohibited; evidence, 50.04
- Lien, 50.06
- Utility bills; collection, 50.02

UTILITIES SUPERINTENDENT, 31.07

UTILITY BILLS, 50.02

UTILITY DEPARTMENTS

- Sewer Department; Operation and Funding, 32.16
- Water Department; Operation and Funding, 32.15

UTILITY-TYPE VEHICLES (See ALL-TERRAIN AND UTILITY-TYPE VEHICLES)

VILLAGE BOARD CHAIRPERSON, (See ELECTED OFFICIALS; ORDINANCES)

VILLAGE LIMITS, 11.02

VILLAGE STANDARDS

- Official corporate seal, 11.01
- Village limits, 11.02

WARRANTS, 34.04

WATER (See Also PUBLIC WORKS)

- Definitions, 52.01
- Water Rates and Charges
 - Rates, 52.45
- Water Regulations
 - Backflow, 52.32
 - Consumer's application, 52.15
 - Destruction of property, 52.30
 - Fees and collections, 52.20
 - Fire hydrants, 52.24
 - Inspection, 52.28
 - Installation, 52.18
 - Mandatory hook-up, 52.26
 - Minimum rates, 52.21
 - Police reports, 52.29
 - Pollution, 52.25
 - Repairs and maintenance, 52.19
 - Restricted use, 52.23
 - Separate premises; payment by owner; water service fee for each separate premise, 52.20.5
 - Service to nonresidents, 52.16
 - Single premise, 52.22
 - Time, 52.31
 - Water contract, 52.17
 - Water service contracts, 52.27

WATER DEPARTMENT; OPERATION AND FUNDING, 32.15

WEEDS; LITTER; STAGNANT WATER, 130.06

ZONING ADMINISTRATOR, 31.10

ZONING CODE

Amending the Zoning Code

Annexation of territory; change of zoning, 152.122

Fees, 152.121

Generally, 152.120

Application of Regulations

Corner lots, 152.071

Fences, 152.076

Height limitations, 152.072

Lighting in commercial areas, 152.077

Lot of record, 152.066

Mobile home parks, 152.065

Off-street parking requirements, 152.073

Projections, 152.070

Rear yard depth, 152.069

Recreational vehicles, trailers, or equipment, 152.075

Setbacks, 152.067

Side yard, 152.068

Swimming pools, 152.074

Board of Adjustment

Appeals to Board; record of appeal; hearings and stays, 152.106

Appeals to district court, 152.108

Members, terms, and meetings, 152.105

Powers and jurisdiction on appeal, 152.107

Districts

Agricultural District (A-1), 152.044

Central Business District (B-2), 152.049

District boundaries; interpretation, 152.042

Districts; boundaries, 152.041

Districts; uses, 152.040

Flood Hazard District (F), 152.053

Heavy Industrial District (I-2), 152.051

Highway Overlay District (HO), 152.052

Light Industrial District (I-1), 152.050

Local Business District (B-1), 152.048

Medium Density Residential District (R-2), 152.046

Multiple Family Residential District (R-3), 152.047

Single Family Residential District (R-1), 152.045

Zoning use chart, 152.043

Enforcement

Building permit, 152.137

Responsibility, 152.135

Zoning certificate, 152.136

ZONING CODE (Cont'd)

Nonconforming Uses

- Conflict, 152.004
- Interpretation, 152.003
- Jurisdiction, 152.002
- Nonconforming lots of record, 152.006
- Nonconforming structures, 152.007
- Nonconforming uses, 152.008
- Publication, 152.011
- Purpose, 152.001
- Regulations application; use, 152.005
- Repairs and maintenance, 152.009
- Special permit uses not nonconforming uses, 152.010

Penalty, 152.999

Special Uses Permits

- Application for special use permits, 152.091
- General provisions, 152.090
- Issuance of special use permits, 152.092
- Standards, 152.093

Terms

- Definitions, 152.026
- Interpretation, 152.025

ZONING USE CHART, 152.043

BENNET MUNICIPAL CODE

STATUTORY APPENDIX

TABLE OF CONTENTS

TAB 1

TAB 2

NEBRASKA BUDGET ACT

TAB 2 – LOCAL GOVERNMENT MISCELLANEOUS EXPENDITURE ACT

TAB 3 – HANDICAPPED PARKING

TAB 4 – INITIATIVE AND REFERENDUM

TAB 5 – ELECTION

TAB 6 – RECALL

TAB 7 – PUBLIC RECORDS

TAB 8 – PUBLIC MEETINGS

TAB 9 – COPYRIGHT APPROVAL

TAB 121 NEBRASKA BUDGET ACT

2

13-501	Act, how cited.
13-502	Purpose of act; applicability.
13-503	Terms, defined.
13-504	Proposed budget statement; contents; corrections; cash reserve; limitation.
13-505	Proposed budget statement; estimated expenditures; unencumbered balances; estimated income.
13-506	Proposed budget statement; notice; hearing; adoption; certify to board; exceptions; file with auditor.
13-507	Levy increase; indicate on budget statement.
13-508	Adopted budget statement; final adjusted valuation; levy.
13-509	County assessor; certify taxable value; when.
13-509.01	Cash balance; expenditure authorized; limitation.
13-509.02	Cash balance; expenditure limitation; exceeded; when; section, how construed.
13-510	Emergency; transfer of funds; violation; penalty.
13-511	Revision of adopted budget statement; when; supplemental funds; hearing; notice; warrants; issuance; correction.
13-512	Budget statement; taxpayer; contest; basis; procedure.
13-513	Auditor; request information.
13-518	Terms, defined.
13-519	Governmental unit; adoption of budget; limitations; additional increases authorized; procedure.
13-520	Limitations; not applicable to certain restricted funds.
13-521	Governmental unit; unused restricted funds; authority to carry forward.
13-522	Noncompliance with budget limitations; Auditor of Public Accounts; State Treasurer; duties.

NEBRASKA BUDGET ACT

Section 13-501

Act, how cited.

Sections 13-501 to 13-513 shall be known and may be cited as the Nebraska Budget Act.

Section 13-502

Purpose of act; applicability.

(1) The purpose of the Nebraska Budget Act is to require governing bodies of this state to which the act applies to follow prescribed budget practices and procedures and make available to the public pertinent information pertaining to the financial requirements and expectations of such governing bodies so that intelligent and informed support, opposition, criticism, suggestions, or observations can be made by those affected.

(2) The act shall not apply to governing bodies which have a budget of less than five thousand dollars per year.

(3) The act shall not apply to proprietary functions of municipalities for which a separate budget has been approved by the city council or village board as provided in the Municipal Proprietary Function Act.

(4) The Nebraska Budget Act shall not apply to any governing body for any fiscal year in which the governing body will not have a property tax request or receive state aid as defined in section 13-518.

(5) The act shall not apply to any public power district or public power and irrigation district organized pursuant to Chapter 70, article 6, to any rural power district organized pursuant to Chapter 70, article 8, or to any agency created pursuant to sections 18-2426 to 18-2434.

Section 13-503

Terms, defined.

For purposes of the Nebraska Budget Act, unless the context otherwise requires:

(1) Governing body means the governing body of any county agricultural society, elected county fair board, joint airport authority formed under the Joint Airport Authorities Act, city or county airport authority, bridge commission created pursuant to section 39-868, cemetery district, city, village, municipal county, community college, community redevelopment authority, county, drainage or levee district, educational service unit, rural or suburban fire protection district, historical society, hospital district, irrigation district, learning community, natural resources district, nonprofit county historical association or society for which a tax is levied under subsection (1) of section 23-355.01, public building commission, railroad transportation safety district, reclamation district, road improvement district, rural water district,

school district, sanitary and improvement district, township, offstreet parking district, transit authority, metropolitan utilities district, Educational Service Unit Coordinating Council, and political subdivision with the authority to have a property tax request, with the authority to levy a toll, or that receives state aid;

(2) Levying board means any governing body which has the power or duty to levy a tax;

(3) Fiscal year means the twelve-month period used by each governing body in determining and carrying on its financial and taxing affairs;

(4) Tax means any general or special tax levied against persons, property, or business for public purposes as provided by law but shall not include any special assessment;

(5) Auditor means the Auditor of Public Accounts;

(6) Cash reserve means funds required for the period before revenue would become available for expenditure but shall not include funds held in any special reserve fund;

(7) Public funds means all money, including nontax money, used in the operation and functions of governing bodies. For purposes of a county, city, or village which has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the county, city, or village from a licensed lottery operator shall be considered public funds, and public funds shall not include amounts awarded as prizes;

(8) Adopted budget statement means a proposed budget statement which has been adopted or amended and adopted as provided in section 13-506. Such term shall include additions, if any, to an adopted budget statement made by a revised budget which has been adopted as provided in section 13-511;

(9) Special reserve fund means any special fund set aside by the governing body for a particular purpose and not available for expenditure for any other purpose. Funds created for (a) the retirement of bonded indebtedness, (b) the funding of employee pension plans, (c) the purposes of the Political Subdivisions Self-Funding Benefits Act, (d) the purposes of the Local Option Municipal Economic Development Act, (e) voter-approved sinking funds, or (f) statutorily authorized sinking funds shall be considered special reserve funds;

(10) Biennial period means the two fiscal years comprising a biennium commencing in odd-numbered or even-numbered years used by a city or village in determining and carrying on its financial and taxing affairs; and

(11) Biennial budget means a budget by a city of the primary or metropolitan class that adopts a charter provision providing for a biennial period to determine and carry on the city's financial and taxing affairs or a budget by a city of the first or second class or village that provides for a biennial period to determine and carry on the city's or village's financial and taxing affairs.

Section 13-504

Proposed budget statement; contents; corrections; cash reserve; limitation.

(1) Each governing body shall annually or biennially prepare a proposed budget statement on forms prescribed and furnished by the auditor. The proposed budget statement shall be made available to the public by the political subdivision prior to publication of the notice of the hearing on the proposed budget statement pursuant to section 13-506. A proposed budget statement shall contain the following information, except as provided by state law:

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

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

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

(d) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property (i) for the purpose of paying the principal or interest on bonds issued by the governing body and (ii) for all other purposes;

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

(f) For municipalities, a list of the proprietary functions which are not included in the budget statement. Such proprietary functions shall have a separate budget statement which is

approved by the city council or village board as provided in the Municipal Proprietary Function Act.

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

(3) The political subdivision shall correct any material errors in the budget statement detected by the auditor or by other sources.

Section 13-505

Proposed budget statement; estimated expenditures; unencumbered balances; estimated income.

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

Section 13-506

Proposed budget statement; notice; hearing; adoption; certify to board; exceptions; file with auditor.

(1) Each governing body shall each year or biennial period conduct a public hearing on its proposed budget statement. Notice of place and time of such hearing, together with a summary of the proposed budget statement, shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the governing body's jurisdiction. When the total operating budget, not including reserves, does not exceed ten thousand dollars per year or twenty thousand dollars per biennial period, the proposed budget summary may be posted at the governing body's principal headquarters. After such hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of such hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. If the levying board represents more than one county, a member or a representative of the governing board shall, upon the written request of any represented county, appear and present its budget at the hearing of the requesting county. The certification of the amount to be received from personal and real property taxation shall specify separately (a) the amount to be applied to the payment of principal or interest on bonds issued by the governing body and (b) the amount to be received for all other purposes. If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of

such changes shall be published within twenty days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for such changes.

(2) Upon approval by the governing body, the budget shall be filed with the auditor. The auditor may review the budget for errors in mathematics, improper accounting, and noncompliance with the Nebraska Budget Act or sections 13-518 to 13-522. If the auditor detects such errors, he or she shall immediately notify the governing body of such errors. The governing body shall correct any such error as provided in section 13-511. Warrants for the payment of expenditures provided in the budget adopted under this section shall be valid notwithstanding any errors or noncompliance for which the auditor has notified the governing body.

Section 13-507

Levy increase; indicate on budget statement.

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

Section 13-508

Adopted budget statement; final adjusted valuation; levy.

(1) After publication and hearing thereon and within the time prescribed by law, each governing body, except as provided in subsection (3) of this section, shall file with and certify to the levying board or boards on or before September 20 of each year or September 20 of the final year of a biennial period and file with the auditor a copy of the adopted budget statement which complies with sections 13-518 to 13-522 or 79-1023 to 79-1030, together with the amount of the tax required to fund the adopted budget, setting out separately (a) the amount to be levied for the payment of principal or interest on bonds issued by the governing body and (b) the amount to be levied for all other purposes. Proof of publication shall be attached to the statements. Learning communities shall also file a copy of such adopted budget statement with member school districts on or before September 1 of each year. The governing body, in certifying the amount required, may make allowance for delinquent taxes not exceeding five percent of the amount required plus the actual percentage of delinquent taxes for the preceding tax year or biennial period and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year or biennial period which is still pending. Except for such allowances, a governing body shall not certify an amount of tax more than one percent greater or lesser than the amount determined under section 13-505.

(2) Each governing body shall use the certified taxable values as provided by the county assessor pursuant to section 13-509 for the current year in setting or certifying the levy. Each governing body may designate one of its members to perform any duty or responsibility required of such body by this section.

(3) (a) A Class I school district shall do the filing and certification required by subsection (1) of this section on or before August 1 of each year.

(b) A learning community shall do such filing and certification on or before September 1 of each year.

Section 13-509

County assessor; certify taxable value; when.

(1) On or before August 20 of each year, the county assessor shall certify to each governing body or board empowered to levy or certify a tax levy the current taxable value of the taxable real and personal property subject to the applicable levy. Current taxable value for real property shall mean the value established by the county assessor and equalized by the county board of equalization and the Tax Equalization and Review Commission. Current taxable value for tangible personal property shall mean the net book value reported by the taxpayer and certified by the county assessor.

(2) The valuation of any real and personal property annexed by a political subdivision on or after August 1 shall be considered in the taxable valuation of the annexing political subdivision the following year.

Section 13-509.01

Cash balance; expenditure authorized; limitation.

On and after the first day of its fiscal year in 1993 and of each succeeding year or on or after the first day of its biennial period and until the adoption of the budget by a governing body in September, the governing body may expend any balance of cash on hand for the current expenses of the political subdivision governed by the governing body. Except as provided in section 13-509.02, 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 or biennial period. Such expenditures shall be charged against the appropriations for each individual fund or purpose as provided in the budget when adopted.

Section 13-509.02

Cash balance; expenditure limitation; exceeded; when; section, how construed.

The restriction on expenditures in section 13-509.01 may be exceeded upon the express finding of the governing body of the political subdivision that expenditures beyond the amount authorized are necessary to enable the political subdivision 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 governing body of the political subdivision in open public session of the governing body. 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 political subdivision in excess of that authorized by any other statutory provision.

Section 13-510***Emergency; transfer of funds; violation; penalty.***

Whenever during the current fiscal year or biennial period it becomes apparent to a governing body 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 governing body may by a majority vote, unless otherwise provided by state law, transfer money from other funds to such fund. No expenditure during any fiscal year or biennial period shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized in section 13-511, or by state law. Any officer or officers of any governing body who obligates funds contrary to the provisions of this section shall be guilty of a Class V misdemeanor.

Section 13-511***Revision of adopted budget statement; when; supplemental funds; hearing; notice; warrants; issuance; correction.***

(1) Unless otherwise provided by law, whenever during the current fiscal year or biennial period it becomes apparent to a governing body that (a) there are circumstances which could not reasonably have been anticipated at the time the budget for the current year or biennial period was adopted, (b) the budget adopted violated sections 13-518 to 13-522, such that the revenue of the current fiscal year or biennial period for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with sections 13-518 to 13-522, or (c) the governing body has been notified by the auditor of a mathematical or accounting error or noncompliance with the Nebraska Budget Act, such governing body may propose to revise the previously adopted budget statement and shall conduct a public hearing on such proposal.

(2) Notice of the time and place of the hearing shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the governing body's jurisdiction. Such published notice shall set forth (a) the time and place of the hearing, (b) the amount in dollars of additional or reduced money required and for what purpose, (c) a statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year or biennial period to meet the need for additional money in that manner, (d) a copy of the summary of the originally adopted budget previously published, and (e) a copy of the summary of the proposed revised budget.

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

(4) Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the governing body, the governing body shall file with the county clerk of the county or counties in which such governing body is located, with the learning community coordinating council for school districts that are members of learning communities, and with the auditor, a copy of the revised budget, as adopted. The governing body may then issue warrants in payment for expenditures authorized by the adopted revised budget. Such

warrants shall be referred to as registered warrants and shall be repaid during the next fiscal year or biennial period from funds derived from taxes levied therefor.

(5) Within thirty days after the adoption of the budget under section 13-506, a governing body may, or within thirty days after notification of an error by the auditor, a governing body shall, correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than one percent or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the governing body shall file a copy of the corrected budget with the county clerk of the county or counties in which such governing body is located and with the auditor. The governing body may then issue warrants in payment for expenditures authorized by the budget.

Section 13-512

Budget statement; taxpayer; contest; basis; procedure.

A taxpayer upon whom a tax will be imposed as a result of the action of a governing body in adopting a budget statement may contest the validity of the budget statement adopted by the governing body by filing an action in the district court of the county in which the governing body is situated. Such action shall be based either upon a violation of or a failure to comply with the provisions and requirements of the Nebraska Budget Act by the governing body. In response to such action, the governing body shall be required to show cause why the budget statement should not be ordered set aside, modified, or changed. The action shall be tried to the court without a jury and shall be given priority by the district court over other pending civil litigation, and by the appellate court on appeal, to the extent possible and feasible to expedite a decision. Such action shall be filed within thirty days after the adopted budget statement is required to be filed by the governing body with the levying board. If the district court finds that the governing body has violated or failed to comply with the requirements of the act, the court shall, in whole or in part, set aside, modify, or change the adopted budget statement or tax levy as the justice of the case may require. The district court's decision may be appealed to the Court of Appeals.

The remedy provided in this section shall not be exclusive but shall be in addition to any other remedy provided by law.

Section 13-513

Auditor; request information.

The auditor shall, on or before December 1 each year, request information from each governing body in a form prescribed by the auditor regarding (1) trade names, corporate names, or other business names under which the governing body operates and (2) agreements to which the governing body is a party under the Interlocal Cooperation Act and the Joint Public Agency Act. Each governing body shall provide such information to the auditor on or before December 31.

Section 13-518
Terms, defined.

For purposes of sections 13-518 to 13-522:

(1) Allowable growth means (a) for governmental units other than community colleges, the percentage increase in taxable valuation in excess of the base limitation established under section 77-3446, if any, due to improvements to real property as a result of new construction, additions to existing buildings, any improvements to real property which increase the value of such property, and any increase in valuation due to annexation and any personal property valuation over the prior year and (b) for community colleges, the percentage increase in excess of the base limitation, if any, in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined;

(2) Capital improvements means (a) acquisition of real property or (b) acquisition, construction, or extension of any improvements on real property;

(3) Governing body has the same meaning as in section 13-503;

(4) Governmental unit means every political subdivision which has authority to levy a property tax or authority to request levy authority under section 77-3443 except sanitary and improvement districts which have been in existence for five years or less and school districts;

(5) Qualified sinking fund means a fund or funds maintained separately from the general fund to pay for acquisition or replacement of tangible personal property with a useful life of five years or more which is to be undertaken in the future but is to be paid for in part or in total in advance using periodic payments into the fund. The term includes sinking funds under subdivision (13) of section 35-508 for firefighting and rescue equipment or apparatus;

(6) Restricted funds means (a) property tax, excluding any amounts refunded to taxpayers, (b) payments in lieu of property taxes, (c) local option sales taxes, (d) motor vehicle taxes, (e) state aid, (f) transfers of surpluses from any user fee, permit fee, or regulatory fee if the fee surplus is transferred to fund a service or function not directly related to the fee and the costs of the activity funded from the fee, (g) any funds excluded from restricted funds for the prior year because they were budgeted for capital improvements but which were not spent and are not expected to be spent for capital improvements, (h) the tax provided in sections 77-27,223 to 77-27,227 beginning in the second fiscal year in which the county will receive a full year of receipts, and (i) any excess tax collections returned to the county under section 77-1776. Funds received pursuant to the nameplate capacity tax levied under section 77-6203 for the first five years after a wind energy generation facility has been commissioned are nonrestricted funds; and

(7) State aid means:

(a) For all governmental units, state aid paid pursuant to sections 60-3,202 and 77-3523;

(b) For municipalities, state aid to municipalities paid pursuant to sections 18-2605, 39-2501 to 39-2520, 60-3,190, and 77-27,139.04 and insurance premium tax paid to municipalities;

(c) For counties, state aid to counties paid pursuant to sections 39-2501 to 39-2520 and 60-3,184 to 60-3,190, insurance premium tax paid to counties, and reimbursements to counties from funds appropriated pursuant to section 29-3933;

(d) For community colleges, (i) for fiscal years 2010-11, 2011-12, and 2012-13, state aid to community colleges paid pursuant to section 90-517 and (ii) for fiscal year 2013-14 and each fiscal year thereafter, state aid to community colleges paid pursuant to the Community College Aid Act;

(e) For educational service units, state aid appropriated under sections 79-1241.01 and 79-1241.03; and

(f) For local public health departments as defined in section 71-1626, state aid as distributed under section 71-1628.08.

Section 13-519

Governmental unit; adoption of budget; limitations; additional increases authorized; procedure.

(1) (a) Subject to subdivision (1)(b) of this section, for all fiscal years beginning on or after July 1, 1998, no governmental unit shall adopt a budget containing a total of budgeted restricted funds more than the last prior year's total of budgeted restricted funds plus allowable growth plus the basic allowable growth percentage of the base limitation established under section 77-3446. For the second fiscal year in which a county will receive a full year of receipts from the tax imposed in sections 77-27,223 to 77-27,227, the prior year's total of restricted funds shall be the prior year's total of restricted funds plus the total receipts from the tax imposed in sections 77-27,223 to 77-27,227 in the prior year. For fiscal years 2010-11 through 2013-14 in which a county will reassume the assessment function pursuant to section 77-1340 or 77-1340.04, the prior year's total of restricted funds shall be the prior year's total of restricted funds plus the total budgeted for the reassumption of the assessment function. If a governmental unit transfers the financial responsibility of providing a service financed in whole or in part with restricted funds to another governmental unit or the state, the amount of restricted funds associated with providing the service shall be subtracted from the last prior year's total of budgeted restricted funds for the previous provider and may be added to the last prior year's total of restricted funds for the new provider. For governmental units that have consolidated, the calculations made under this section for consolidating units shall be made based on the combined total of restricted funds, population, or full-time equivalent students of each governmental unit.

(b) For all fiscal years beginning on or after July 1, 2008, educational service units may exceed the limitations of subdivision (1)(a) of this section to the extent that one hundred ten percent of the needs for the educational service unit calculated pursuant to section

79-1241.03 exceeds the budgeted restricted funds allowed pursuant to subdivision (1)(a) of this section.

(2) A governmental unit may exceed the limit provided in subdivision (1)(a) of this section for a fiscal year by up to an additional one percent upon the affirmative vote of at least seventy-five percent of the governing body.

(3) A governmental unit may exceed the applicable allowable growth percentage otherwise prescribed in this section by an amount approved by a majority of legal voters voting on the issue at a special election called for such purpose upon the recommendation of the governing body or upon the receipt by the county clerk or election commissioner of a petition requesting an election signed by at least five percent of the legal voters of the governmental unit. The recommendation of the governing body or the petition of the legal voters shall include the amount and percentage by which the governing body would increase its budgeted restricted funds for the ensuing year over and above the current year's budgeted restricted funds. The county clerk or election commissioner shall call for a special election on the issue within thirty days after the receipt of such governing body recommendation or legal voter petition. The election shall be held pursuant to the Election Act, and all costs shall be paid by the governing body. The issue may be approved on the same question as a vote to exceed the levy limits provided in section 77-3444.

(4) In lieu of the election procedures in subsection (3) of this section, any governmental unit may exceed the allowable growth percentage otherwise prescribed in this section by an amount approved by a majority of legal voters voting at a meeting of the residents of the governmental unit, called after notice is published in a newspaper of general circulation in the governmental unit at least twenty days prior to the meeting. At least ten percent of the registered voters residing in the governmental unit shall constitute a quorum for purposes of taking action to exceed the allowable growth percentage. If a majority of the registered voters present at the meeting vote in favor of exceeding the allowable growth percentage, a copy of the record of that action shall be forwarded to the Auditor of Public Accounts along with the budget documents. The issue to exceed the allowable growth percentage may be approved at the same meeting as a vote to exceed the limits or final levy allocation provided in section 77-3444.

Section 13-520

Limitations; not applicable to certain restricted funds.

The limitations in section 13-519 shall not apply to (1) restricted funds budgeted for capital improvements, (2) restricted funds expended from a qualified sinking fund for acquisition or replacement of tangible personal property with a useful life of five years or more, (3) restricted funds pledged to retire bonded indebtedness, used by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport, or used to pay other financial instruments that are approved and agreed to before July 1, 1999, in the same manner as bonds by a governing body created under section 35 501, (4) restricted funds budgeted in support of a service which is the subject of an agreement or a modification of an existing agreement whether operated by one of the parties to the agreement or by an independent joint entity or joint public agency, (5) restricted funds budgeted

to pay for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act, (6) restricted funds budgeted to pay for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a governmental unit which require or obligate a governmental unit to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a governmental unit, (7) the dollar amount by which restricted funds budgeted by a natural resources district to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed its restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2003-04, or (8) restricted funds budgeted to pay for the reassumption of the assessment function pursuant to section 77-1340 or 77-1340.04 in fiscal years 2010-11 through 2013-14.

Section 13-521

Governmental unit; unused restricted funds; authority to carry forward.

A governmental unit may choose not to increase its total of restricted funds by the full amount allowed by law in a particular year. In such cases, the governmental unit may carry forward to future budget years the amount of unused restricted funds authority. The governmental unit shall calculate its unused restricted funds authority and submit an accounting of such amount with the budget documents for that year. Such unused restricted funds authority may then be used in later years for increases in the total of restricted funds allowed by law. Any unused budget authority existing on April 8, 1998, by reason of any prior law may be used for increases in restricted funds authority.

Section 13-522

Noncompliance with budget limitations; Auditor of Public Accounts; State Treasurer; duties.

The Auditor of Public Accounts shall prepare budget documents to be submitted by governmental units which calculate the restricted funds authority for each governmental unit. Each governmental unit shall submit its calculated restricted funds authority with its budget documents at the time the budgets are due to the Auditor of Public Accounts. If the Auditor of Public Accounts determines from the budget documents that a governmental unit is not complying with the budget limits provided in sections 13-518 to 13-522, he or she shall notify the governing body of his or her determination and notify the State Treasurer of the noncompliance. The State Treasurer shall then suspend distribution of state aid allocated to the governmental unit until such sections are complied with. The funds shall be held for six months until the governmental unit complies, and if the governmental unit complies within the six-month period, it shall receive the suspended funds, but after six months, if the governmental unit fails to comply, the suspended funds shall be forfeited and shall be redistributed to other recipients of the state aid or, in the case of homestead exemption reimbursement, returned to the General Fund.

TAB 2-LOCAL GOVERNMENT MISCELLANEOUS EXPENDITURE ACT

- 13-2201 Act, how cited.**
- 13-2202 Terms, defined.**
- 13-2203 Additional expenditures; governing body; powers; procedures.**
- 13-2204 Expenditures; limitations; exception.**

LOCAL GOVERNMENT MISCELLANEOUS EXPENDITURE ACT

Section 13-2201

Act, how cited.

Sections 13-2201 to 13-2204 shall be known and may be cited as the Local Government Miscellaneous Expenditure Act.

Section 13-2202

Terms, defined.

For purposes of the Local Government Miscellaneous Expenditure Act:

(1) Elected and appointed officials and employees shall mean the elected and appointed officials and employees of any local government;

(2) Governing body shall mean, in the case of a city of any class, the council; in the case of a village, cemetery district, community hospital for two or more adjoining counties, county hospital, road improvement district, sanitary drainage district, or sanitary and improvement district, the board of trustees; in the case of a county, the county board; in the case of a municipal county, the council; in the case of a township, the town board; in the case of a school district, the school board; in the case of a rural or suburban fire protection district, reclamation district, natural resources district, or hospital district, the board of directors; in the case of a health district, the board of health; in the case of an educational service unit, the board; in the case of a community college, the Community College Board of Governors for the area the board serves; in the case of an airport authority, the airport authority board; in the case of a weed control authority, the board; in the case of a county agricultural society, the board of governors; and in the case of a learning community, the learning community coordinating council;

(3) Local government shall mean cities of any class, villages, cemetery districts, community hospitals for two or more adjoining counties, county hospitals, road improvement districts, counties, townships, sanitary drainage districts, sanitary and improvement districts, school districts, rural or suburban fire protection districts, reclamation districts, natural resources districts, hospital districts, health districts, educational service units, community colleges, airport authorities, weed control authorities, county agricultural societies, and learning communities;

(4) Public funds shall mean such public funds as defined in section 13-503 as are under the direct control of governing bodies of local governments;

(5) Public meeting shall mean all regular, special, or called meetings, formal or informal, of any governing body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the governing body; and

(6) Volunteer shall mean a person who is not an elected or appointed official or an employee of a local government and who, at the request or with the permission of the local

government, engages in activities related to the purposes or functions of the local government or for its general benefit.

Section 13-2203

Additional expenditures; governing body; powers; procedures.

In addition to other expenditures authorized by law, each governing body may approve:

(1) (a) The expenditure of public funds for the payment or reimbursement of actual and necessary expenses incurred by elected and appointed officials, employees, or volunteers at educational workshops, conferences, training programs, official functions, hearings, or meetings, whether incurred within or outside the boundaries of the local government, if the governing body gave prior approval for participation or attendance at the event and for payment or reimbursement either by the formal adoption of a uniform policy or by a formal vote of the governing body. Authorized expenses may include:

(i) Registration costs, tuition costs, fees, or charges;

(ii) Mileage at the rate allowed by section 81-1176 or actual travel expense if travel is authorized by commercial or charter means; and

(iii) Meals and lodging at a rate not exceeding the applicable federal rate unless a fully itemized claim is submitted substantiating the costs actually incurred in excess of such rate and such additional expenses are expressly approved by the governing body; and

(b) Authorized expenditures shall not include expenditures for meals of paid members of a governing body provided while such members are attending a public meeting of the governing body unless such meeting is a joint public meeting with one or more other governing bodies;

(2) The expenditure of public funds for:

(a) Nonalcoholic beverages provided to individuals attending public meetings of the governing body; and

(b) Nonalcoholic beverages and meals:

(i) Provided for any individuals while performing or immediately after performing relief, assistance, or support activities in emergency situations, including, but not limited to, tornado, severe storm, fire, or accident;

(ii) Provided for any volunteers during or immediately following their participation in any activity approved by the governing body, including, but not limited to, mowing parks, picking up litter, removing graffiti, or snow removal; or

(iii) Provided at one recognition dinner each year held for elected and appointed officials, employees, or volunteers of the local government. The maximum cost per person for such dinner shall be established by formal action of the governing body, but shall not exceed twenty-five dollars. An annual recognition dinner may be held separately for employees of each department or separately for volunteers, or any of them in combination, if authorized by the governing body; and

(3) The expenditure of public funds for plaques, certificates of achievement, or items of value awarded to elected or appointed officials, employees, or volunteers, including persons serving on local government boards or commissions. Before making any such expenditure, the governing body shall, by official action after a public hearing, establish a uniform policy which sets a dollar limit on the value of any plaque, certificate of achievement, or item of value to be awarded. Such policy, following its initial adoption, shall not be amended or altered more than once in any twelve-month period.

Section 13-2204

Expenditures; limitations; exception.

Nothing in the Local Government Miscellaneous Expenditure Act shall authorize the expenditure of public funds to pay for any expenses incurred by a spouse of an elected or appointed official, employee, or volunteer unless the spouse is also an elected or appointed official, employee, or volunteer of the local government. Nothing in the act shall be construed to limit, restrict, or prohibit the governing body of any local government from making any expenditure authorized by statute, ordinance, resolution, or home rule charter or pursuant to any authority granted by law, either express or implied, except to the extent that such statute, ordinance, resolution, home rule charter, or other grant of authority by law, express or implied, may conflict with the act.

TAB 3 - HANDICAPPED PARKING

18-1736	Handicapped or disabled persons; designation of parking spaces; display of permits; access aisle, defined.
18-1737	Handicapped or disabled persons; offstreet parking facility; onstreet parking; designation; removal of unauthorized vehicle; penalty; state agency, defined.
18-1738	Handicapped or disabled persons, defined; parking; permits; issuance; procedure; renewal.
18-1738.01	Handicapped or disabled persons; motor vehicle used for transportation; parking permits; issuance; procedure; renewal.
18-1738.02	Handicapped or disabled persons; permit; place of application.
18-1739	Handicapped or disabled persons; parking; permits; contents; issuance; duplicate permit.
18-1740	Handicapped or disabled persons; parking; permits; period valid; renewal.
18-1741	Handicapped or disabled persons; parking; permits; nontransferable; violation; suspension; punishment; fine.
18-1741.01	Handicapped parking infraction, defined; citation issuance; enforcement on state property.
18-1741.02	Handicapped parking infraction; penalties.
18-1741.03	Handicapped parking infraction; citation form; Supreme Court; powers.
18-1741.04	Handicapped parking citation; requirements; procedure; waivers; dismissal; credit card; payment authorized.
18-1741.05	Handicapped parking citation; violation; penalty.
18-1741.06	Handicapped parking infraction; trial; rights.
18-1741.07	Handicapped parking infractions; sections, how construed.
18-1742	Handicapped parking; rules and regulations.

HANDICAPPED PARKING

Section 18-1736

Handicapped or disabled persons; designation of parking spaces; display of permits; access aisle, defined.

(1) A city or village may designate parking spaces, including access aisles, for the exclusive use of (a) handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to handicapped or disabled persons pursuant to section 60-3,113, (b) handicapped or disabled persons whose motor vehicles display a distinguishing license plate issued to a handicapped or disabled person by another state, (c) such other handicapped or disabled persons or temporarily handicapped or disabled persons whose motor vehicles display a handicapped or disabled parking permit, and (d) such other motor vehicles which display a handicapped or disabled parking permit.

(2) If a city or village so designates a parking space or access aisle, it shall be indicated by posting aboveground and immediately adjacent to and visible from each space or access aisle a sign as described in section 18-1737. In addition to such sign, the space or access aisle may also be indicated by blue paint on the curb or edge of the paved portion of the street adjacent to the space or access aisle.

(3) For purposes of sections 18-1736 to 18-1742:

(a) Access aisle has the same meaning as in section 60-302.01;

(b) Handicapped or disabled parking permit has the same meaning as in section 60-331.01;

(c) Handicapped or disabled person has the same meaning as in section 60-331.02; and

(d) Temporarily handicapped or disabled person has the same meaning as in section 60-352.01.

Section 18-1737

Handicapped or disabled persons; offstreet parking facility; onstreet parking; designation; removal of unauthorized vehicle; penalty; state agency, defined.

(1) Any city or village, any state agency, and any person in lawful possession of any offstreet parking facility may designate stalls or spaces, including access aisles, in such facility owned or operated by the city, village, state agency, or person for the exclusive use of handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to such individuals pursuant to section 60-3,113, such other handicapped or disabled persons or temporarily handicapped or disabled persons whose motor vehicles display a handicapped or disabled parking permit, and such other motor vehicles which display a handicapped or disabled parking permit. Such designation shall be made by posting aboveground

and immediately adjacent to and visible from each stall or space, including access aisles, a sign which is in conformance with the Manual on Uniform Traffic Control Devices adopted pursuant to section 60-6,118 and the federal Americans with Disabilities Act of 1990 and the federal regulations adopted in response to the act, as the act and the regulations existed on January 1, 2011.

(2) The owner or person in lawful possession of an offstreet parking facility, after notifying the police or sheriff's department, as the case may be, and any city, village, or state agency providing onstreet parking or owning, operating, or providing an offstreet parking facility may cause the removal, from a stall or space, including access aisles, designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, of any vehicle not displaying the proper handicapped or disabled parking permit or the distinguishing license plates specified in this section if there is posted aboveground and immediately adjacent to and visible from such stall or space, including access aisles, a sign which clearly and conspicuously states the area so designated as a tow-in zone.

(3) A person who parks a vehicle in any onstreet parking space or access aisle which has been designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, or in any so exclusively designated parking space or access aisle in any offstreet parking facility, without properly displaying the proper license plates or handicapped or disabled parking permit or when the handicapped or disabled person to whom or for whom, as the case may be, the license plate or permit is issued will not enter or exit the vehicle while it is parked in the designated space or access aisle shall be guilty of a handicapped parking infraction as defined in section 18-1741.01 and shall be subject to the penalties and procedures set forth in sections 18-1741.01 to 18-1741.07. The display on a motor vehicle of a distinguishing license plate or permit issued to a handicapped or disabled person by and under the duly constituted authority of another state shall constitute a full and complete defense in any action for a handicapped parking infraction as defined in section 18-1741.01. If the identity of the person who parked the vehicle in violation of this section cannot be readily determined, the owner or person in whose name the vehicle is registered shall be held prima facie responsible for such violation and shall be guilty and subject to the penalties and procedures described in this section. In the case of a privately owned offstreet parking facility, a city or village shall not require the owner or person in lawful possession of such facility to inform the city or village of a violation of this section prior to the city or village issuing the violator a handicapped parking infraction citation.

(4) For purposes of this section and section 18-1741.01, state agency means any division, department, board, bureau, commission, or agency of the State of Nebraska created by the Constitution of Nebraska or established by act of the Legislature, including the University of Nebraska and the Nebraska state colleges, when the entity owns, leases, controls, or manages property which includes offstreet parking facilities.

Section 18-1738

Handicapped or disabled persons, defined; parking; permits; issuance; procedure; renewal.

(1) This section applies until the implementation date designated by the Director of Motor Vehicles under section 60-3,113.01.

(2) The clerk of any city of the primary class, first class, or second class or village shall, or the county treasurer or the Department of Motor Vehicles may, take an application from a handicapped or disabled person or temporarily handicapped or disabled person or his or her parent, legal guardian, or foster parent for a handicapped or disabled parking permit which will entitle the holder thereof or a person driving a motor vehicle for the purpose of transporting such holder to park in those spaces or access aisles provided for by sections 18-1736 to 18-1741 when the holder of the permit will enter or exit the motor vehicle while it is parked in such spaces or access aisles. For purposes of this section, the handicapped or disabled person or temporarily handicapped or disabled person shall be considered the holder of the permit.

(3) A person applying for a handicapped or disabled parking permit or for the renewal of a permit shall complete an application, shall provide proof of identity, and shall submit a completed medical form containing the statutory criteria for qualification and signed by a physician, a physician assistant, or an advanced practice registered nurse practicing under and in accordance with his or her certification act, certifying that the person who will be the holder meets the definition of handicapped or disabled person or temporarily handicapped or disabled person. No applicant shall be required to provide his or her social security number. In the case of a temporarily handicapped or disabled person, the certifying physician, physician assistant, or advanced practice registered nurse shall indicate the estimated date of recovery or that the temporary handicap or disability will continue for a period of six months, whichever is less. A person may hold up to two permits under this section. If a person holds a permit under this section, such person may not hold a permit under section 18-1738.01. The Department of Motor Vehicles shall provide applications and medical forms to the city or village clerk or county treasurer. The application form shall contain information listing the legal uses of the permit and that the permit is not transferable, is to be used by the party to whom issued or for the motor vehicle for which it is issued, is not to be altered or reproduced, and is to be used only when a handicapped or disabled person or a temporarily handicapped or disabled person will enter or exit the motor vehicle while it is parked in a designated parking space or access aisle. The application form shall provide space for the applicant to sign a statement that he or she is aware of his or her rights, duties, and responsibilities with regard to the use and possession of a permit and the penalties provided by law for handicapped parking infractions. The application form shall also indicate that those convicted of handicapped parking infractions shall be subject to suspension of the permit for six months. A copy of the completed application form shall be given to each applicant. The city or village clerk or county treasurer shall submit to the department the name, address, and license number of all persons applying for a permit pursuant to this section. An application for the renewal of a permit under this section may be filed within one hundred eighty days prior to the expiration of the permit. The existing permit shall be invalid upon receipt of the new permit. Following the receipt of the application and its processing, the Department of Motor Vehicles shall deliver each individual renewed permit to the applicant, except that renewed permits shall not be issued sooner than ten days prior to the date of expiration.

(4) The Department of Motor Vehicles, upon receipt from the city or village clerk or county treasurer of a completed application form and completed medical form from an applicant for a handicapped or disabled parking permit under this section, shall verify that the applicant qualifies for such permit and, if so, shall deliver the permit to the applicant.

Section 18-1738.01

Handicapped or disabled persons; motor vehicle used for transportation; parking permits; issuance; procedure; renewal.

(1) This section applies until the implementation date designated by the Director of Motor Vehicles under section 60-3,113.01.

(2) The clerk of any city of the primary class, first class, or second class or village shall, or the county treasurer or the Department of Motor Vehicles may, take an application from any person for a handicapped or disabled parking permit that is issued for a specific motor vehicle and entitles the holder thereof or a person driving the motor vehicle for the purpose of transporting handicapped or disabled persons or temporarily handicapped or disabled persons to park in those spaces or access aisles provided for by sections 18-1736 to 18-1741 if the motor vehicle is used primarily for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons. Such permit shall be used only when the motor vehicle for which it was issued is being used for the transportation of a handicapped or disabled person or temporarily handicapped or disabled person and such person will enter or exit the motor vehicle while it is parked in such designated spaces or access aisles.

(3) A person applying for a handicapped or disabled parking permit or for the renewal of a permit pursuant to this section shall apply for a permit for each motor vehicle used for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, shall complete such forms as are provided to the city or village clerk or county treasurer by the Department of Motor Vehicles, and shall demonstrate to the city or village clerk or county treasurer or the department that each such motor vehicle is used primarily for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons. The application form shall contain information listing the legal uses of the permit and that the permit is not transferable, is to be used by the party to whom issued or for the motor vehicle for which it is issued, is not to be altered or reproduced, and is to be used only when a handicapped or disabled person or a temporarily handicapped or disabled person will enter or exit the motor vehicle while it is parked in a designated parking space or access aisle. The application form shall provide space for the applicant to sign a statement that he or she is aware of his or her rights, duties, and responsibilities with regard to the use and possession of a permit and the penalties provided by law for handicapped parking infractions. The application form shall also indicate that those convicted of handicapped parking infractions shall be subject to suspension of the permit for six months. A copy of the completed application form shall be given to each applicant. No more than one such permit shall be issued for each motor vehicle. An application for the renewal of a permit under this section may be filed within one hundred eighty days prior to the expiration of the permit. The existing permit shall be invalid upon receipt of the new permit. Following the receipt of the application and its processing, the Department of Motor

Vehicles shall deliver each individual renewed permit to the applicant, except that renewed permits shall not be issued sooner than ten days prior to the date of expiration.

(4) The department, upon receipt from the city or village clerk or county treasurer of a completed application form, shall verify that the applicant qualifies for a handicapped or disabled parking permit under this section and, if so, shall deliver the permit to the applicant. The city or village clerk or county treasurer shall submit to the department the name, address, and license number of all persons applying for a permit pursuant to this section.

Section 18-1738.02

Handicapped or disabled persons; permit; place of application.

(1) This section applies until the implementation date designated by the Director of Motor Vehicles under section 60-3,113.01.

(2) Any person applying for a handicapped or disabled parking permit pursuant to section 18-1738 or 18-1738.01 shall apply for such permit to the city clerk, village clerk, or county treasurer of the city, village, or county within which the applying individual resides or to the Department of Motor Vehicles. If such person does not reside within a city or village and the county treasurer does not issue permits, the person shall make application to the city clerk or village clerk of the city or village located nearest to his or her place of residence, to the county treasurer of any neighboring county who issues such permits, or to the department. No city clerk, village clerk, county treasurer, or department employee shall accept the application for a permit pursuant to section 18-1738 or 18-1738.01 of any person making application contrary to the provisions of this section.

Section 18-1739

Handicapped or disabled persons; parking; permits; contents; issuance; duplicate permit.

(1) This section applies until the implementation date designated by the Director of Motor Vehicles under section 60-3,113.01.

(2) The handicapped or disabled parking permit to be issued pursuant to section 18-1738 or 18-1738.01 shall be constructed of a durable plastic designed to resist normal wear or fading for the term of the permit's issuance and printed so as to minimize the possibility of alteration following issuance. The permit shall be of a design, size, configuration, color, and construction and contain such information as specified in the regulations adopted by the United States Department of Transportation in the Uniform System for Parking for Persons with Disabilities, 23 C.F.R. part 1235, as such regulations existed on January 1, 2012.

(3) Until October 1, 2011, in addition to the requirements of subsection (2) of this section, the handicapped or disabled parking permit shall show the expiration date and such identifying information with regard to the handicapped or disabled person or temporarily handicapped or disabled person to whom it is issued as is necessary to the enforcement of sections 18-1736 to 18-1741.07 as determined by the Department of Motor Vehicles. The

expiration date information shall be distinctively color-coded so as to identify by color the year in which the permit is due to expire.

(4) No handicapped or disabled parking permit shall be issued to any person or for any motor vehicle if any permit has been issued to such person or for such motor vehicle and such permit has been suspended pursuant to section 18-1741.02. At the expiration of such suspension, a permit may be renewed in the manner provided for renewal in sections 18-1738, 18-1738.01, and 18-1740.

(5) A duplicate handicapped or disabled parking permit may be provided without cost up to two times during any single permit period if a permit is destroyed, lost, or stolen. Such duplicate permit shall be issued as provided in section 18-1738 or 18-1738.01, whichever is applicable, except that a newly completed medical form need not be provided if a completed medical form submitted at the time of the most recent application for a permit or its renewal is on file with the city or village clerk, the county treasurer, or the Department of Motor Vehicles. A duplicate permit shall be valid for the remainder of the period for which the original permit was issued. If a person has been issued two duplicate permits under this subsection and needs another permit, such person shall reapply for a new permit under section 18-1738 or 18-1738.01, whichever is applicable.

Section 18-1740

Handicapped or disabled persons; parking; permits; period valid; renewal.

(1) This section applies until the implementation date designated by the Director of Motor Vehicles under section 60-3,113.01.

(2) Permanently issued handicapped or disabled parking permits issued prior to October 1, 2011, shall be valid for a period ending on the last day of the month of the applicant's birthday in the third year after issuance and shall expire on that day. Permanently issued handicapped or disabled parking permits issued on or after October 1, 2011, shall be valid for a period ending on the last day of the month of the applicant's birthday in the sixth year after issuance and shall expire on that day.

(3) All handicapped or disabled parking permits for temporarily handicapped or disabled persons shall be issued for a period ending not more than six months after the date of issuance but may be renewed one time for a period not to exceed six months. For the renewal period, there shall be submitted an additional application with proof of a handicap or disability.

Section 18-1741

Handicapped or disabled persons; parking; permits; nontransferable; violation; suspension; punishment; fine.

(1) This section applies until the implementation date designated by the Director of Motor Vehicles under section 60-3,113.01.

(2) A handicapped or disabled parking permit shall not be transferable and shall be used only by the party to whom issued or for the motor vehicle for which issued and only for the purpose for which the permit is issued. A handicapped or disabled parking permit shall be displayed by hanging the permit from the motor vehicle's rearview mirror so as to be clearly visible through the front windshield. A handicapped or disabled parking permit shall be displayed on the dashboard only when there is no rearview mirror. No person shall alter or reproduce in any manner a handicapped or disabled parking permit. No person shall knowingly hold more than the allowed number of handicapped or disabled parking permits or knowingly provide false information on an application for a handicapped or disabled parking permit. No person who is not the holder of a handicapped or disabled parking permit issued to him or her as a handicapped or disabled person shall display a handicapped or disabled parking permit and park in a space or access aisle designated for the exclusive use of a handicapped or disabled person. No person who is the holder of a handicapped or disabled parking permit issued for the use of such person when transporting a handicapped or disabled person shall display his or her handicapped or disabled parking permit and park in a space or access aisle designated for the exclusive use of a handicapped or disabled person unless a handicapped or disabled person will enter or exit the motor vehicle while it is parked in a designated space or access aisle. No person who is not the holder of a handicapped or disabled parking permit issued for use when a vehicle is transporting a handicapped or disabled person shall display a handicapped or disabled parking permit and park in a space or access aisle designated for the exclusive use of a handicapped or disabled person unless a handicapped or disabled person will enter or exit the motor vehicle while it is parked in a designated space or access aisle. Any violation of this section shall constitute a handicapped parking infraction as defined in section 18-1741.01 and shall be subject to the penalties and procedures set forth in sections 18-1741.01 to 18-1741.07.

Section 18-1741.01

Handicapped parking infraction, defined; citation issuance; enforcement on state property.

(1) For purposes of sections 18-1741.01 to 18-1741.07, handicapped parking infraction means the violation of any statute or ordinance regulating (a) the use of parking spaces, including access aisles, designated for use by handicapped or disabled persons, (b) the unauthorized possession, use, or display of handicapped or disabled parking permits, or (c) the obstruction of any wheelchair ramps constructed or created in accordance and in conformity with the federal Americans with Disabilities Act of 1990, as the act existed on May 31, 2001.

(2) For any offense classified as a handicapped parking infraction, a handicapped parking citation may be issued by any peace officer or by any person designated by ordinance or resolution approved by a governing board of a county, city, or village to exercise the authority to issue a citation for any handicapped parking infraction. Such authorization shall be carried out in the manner specified in sections 18-1741.03 and 18-1741.04.

(3) A state agency as defined in section 18-1737 which owns, leases, controls, or manages state property on which public parking is allowed may enter into an agreement with the governing board of the county, city, or village in which the state property or any portion of it is located to allow the political subdivision to enforce sections 18-1736 to 18-1741.07 on such state property.

Section 18-1741.02***Handicapped parking infraction; penalties; suspension of permit; fine.***

(1) Any person found guilty of a handicapped parking infraction shall be fined (a) not more than one hundred fifty dollars for the first offense, (b) not more than three hundred dollars for a second offense within a one-year period, and (c) not more than five hundred dollars for a third or subsequent offense within a one-year period.

(2) In addition to any fine imposed under subsection (1) of this section, any person found guilty of a handicapped parking infraction under section 18-1741 or section 60-3,113.06 shall be subject to suspension of such person's handicapped or disabled parking permit for six months and such other punishment as may be provided by local ordinance. In addition, the court shall impose a fine of not more than two hundred fifty dollars which may be waived by the court if, at the time of sentencing, all handicapped or disabled parking permits issued to or in the possession of the offender are returned to the court. At the expiration of such six-month period, a suspended handicapped or disabled parking permit may be renewed in the manner provided for renewal of the original permit.

Section 18-1741.03***Handicapped parking infraction; citation form; Supreme Court; powers.***

To insure uniformity, the Supreme Court may prescribe the form of the handicapped parking citation to be used for handicapped parking infractions. The handicapped parking citation shall include a description of the handicapped parking infraction, the time and place at which the person cited is to appear, a warning that failure to appear in accordance with the command of the citation is a punishable offense, and such other matter as the Supreme Court deems appropriate, but shall not include a place for the cited person's social security number. The handicapped parking citation shall provide space for an affidavit by a peace officer certifying that the recipient of the citation is the lawful possessor in his or her own right of a handicapped or disabled parking permit and that the peace officer has personally viewed the permit. The Supreme Court may provide that a copy of the handicapped parking citation constitutes the complaint filed in the trial court.

Section 18-1741.04***Handicapped parking citation; requirements; procedure; waivers; dismissal; credit card; payment authorized.***

When a handicapped parking citation is issued for a handicapped parking infraction, the person issuing the handicapped parking citation shall enter thereon all required information, including the name and address of the cited person or, if not known, the license number and description of the offending motor vehicle, the offense charged, and the time and place the person cited is to appear in court. Unless the person cited requests an earlier date, the time of appearance shall be at least three days after the issuance of the handicapped parking citation. One copy of the handicapped parking citation shall be delivered to the person cited or attached to the offending motor vehicle. At least twenty-four hours before the time set for the appearance of the cited person, either the prosecuting attorney or other person authorized by law to issue a

complaint for the particular offense shall issue and file a complaint charging such person with a handicapped parking infraction or such person shall be released from the obligation to appear as specified. A person cited for a handicapped parking violation may waive his or her right to trial. For any handicapped parking citation issued for a handicapped parking infraction by reason of the failure of a vehicle to display a handicapped or disabled parking permit, the complaint shall be dismissed if, within seven business days after the date of issuance of the citation, the person cited files with the court the affidavit provided for in section 18-1741.03, signed by a peace officer certifying that the recipient is the lawful possessor in his or her own right of a handicapped or disabled parking permit and that the peace officer has personally viewed the permit. The Supreme Court may prescribe uniform rules for such waivers. Anyone may use a credit card authorized by the court in which the person is cited as a means of payment of his or her fine and costs.

Section 18-1741.05

Handicapped parking citation; violation; penalty.

Any person failing to appear or otherwise comply with the command of a handicapped parking citation for a handicapped parking infraction shall be guilty of a Class III misdemeanor.

Section 18-1741.06

Handicapped parking infraction; trial; rights.

The trial of any person for a handicapped parking infraction shall be by the court without a jury. All other rights provided by the Constitution of the United States made applicable to the states by the Fourteenth Amendment to the Constitution of the United States and the Constitution of Nebraska shall apply to persons charged with a handicapped parking infraction.

Section 18-1741.07

Handicapped parking infractions; sections, how construed.

Sections 18-1741.01 to 18-1741.07 shall not be construed to affect the rights, lawful procedures, or responsibilities of peace officers or law enforcement agencies using the handicapped parking citation for handicapped parking infractions.

Section 18-1742

Handicapped parking; rules and regulations.

(1) This section applies until the implementation date designated by the Director of Motor Vehicles under section 60-3,113.01.

(2) The Department of Motor Vehicles shall adopt and promulgate rules and regulations necessary to fulfill any duties and obligations as provided in sections 18-1736 to 18-1741.07.

TAB 4 - INITIATIVE AND REFERENDUM

18-2501	Powers; use; provisions governing.
18-2502	Definitions, sections found.
18-2503	Circulator, defined.
18-2504	City clerk, defined.
18-2505	Governing body, defined.
18-2506	Measure, defined.
18-2507	Municipal subdivision, defined.
18-2508	Petition, defined.
18-2508.01	Place of residence, defined.
18-2509	Prospective petition, defined.
18-2510	Qualified electors, defined.
18-2510.01	Residence, defined.
18-2511	Signature sheet, defined.
18-2512	Prospective petition; filing; city clerk; duties; revision; procedure; verification; effect.
18-2513	Ballot title; contents; ballots; form.
18-2514	Petitions; form; Secretary of State; duties; copies.
18-2515	Petition; contents; chief petitioners or sponsors; requirements.
18-2516	Signature sheet; requirements.
18-2517	Petition; signers and circulators; requirements.
18-2518	Petition; filed; signature verification; costs; time limitation.
18-2519	Measure; resubmission; limitation.

18-2520	Measure submitted to voters by municipal subdivision; procedure; approval.
18-2521	Elections; when held; city clerk; duties; notice; form.
18-2522	Ballots; preparation; form.
18-2523	Initiative powers; scope.
18-2524	Initiative petition; failure of municipal governing body to pass; effect; regular or special election.
18-2525	Initiative petition; request for special election; failure of municipal governing body to pass; effect.
18-2526	Adopted initiative measure; when effective; amendment or repeal; restrictions.
18-2527	Referendum powers; scope.
18-2528	Referendum; measures excluded; measures subject to limited referendum; procedure.
18-2529	Referendum petition; failure of municipal governing body to act; effect; special election.
18-2530	Referendum petition; request for special election; failure of municipal governing body to act; effect.
18-2531	Adopted referendum measure; reenactment or return to original form; restrictions; failure of referendum; effect.
18-2532	False affidavit; false oath; penalty.
18-2533	Petitions; illegal acts; penalty.
18-2534	Signing of petition; illegal acts; penalty.
18-2535	City clerk; illegal acts; penalty.
18-2536	Election Act; applicability.
18-2537	Sections; inapplicability.
18-2538	Declaratory judgment; procedure; effect.

INITIATIVE AND REFERENDUM

Section 18-2501

Powers; use; provisions governing.

(1) The powers of initiative and referendum are hereby reserved to the qualified electors of each municipal subdivision in the state. Sections 18-2501 to 18-2537 shall govern the use of initiative to enact, and the use of referendum to amend or repeal measures affecting the governance of all municipal subdivisions in the state, except those operating under home rule charter and as specified in section 18-2537.

(2) Cities operating under home rule charter shall provide, by charter provision or ordinance, for the exercise of the powers of initiative and referendum within the cities. Nothing in sections 18-2501 to 18-2537 shall be construed to prevent such cities from adopting any or all of the provisions of sections 18-2501 to 18-2537.

Section 18-2502

Definitions, sections found.

For purposes of sections 18-2501 to 18-2538, the definitions in sections 18-2503 to 18-2511, unless the context otherwise requires, shall apply.

Section 18-2503

Circulator, defined.

Circulator shall mean any person who solicits signatures for an initiative or referendum petition.

Section 18-2504

City clerk, defined.

City clerk shall mean the city or village clerk or the municipal official in charge of elections.

Section 18-2505

Governing body, defined.

Governing body shall mean the legislative authority of any municipal subdivision subject to sections 18-2501 to 18-2537.

Section 18-2506
Measure, defined.

Measure means an ordinance, charter provision, or resolution which is within the legislative authority of the governing body of a municipal subdivision to pass and which is not excluded from the operation of referendum by the exceptions in section 18-2528. Measure does not include any action permitted by the Nebraska Advantage Transformational Tourism and Redevelopment Act..

Section 18-2507
Municipal subdivision, defined.

Municipal subdivision shall mean all cities, not operating under home rule charters, of metropolitan, primary, first, and second classes, including those functioning under the commission and city manager forms of government, and villages.

Section 18-2508
Petition, defined.

Petition shall mean a document authorized for circulation pursuant to section 18-2512, or any copy of such document.

Section 18-2508.01
Place of residence, defined.

Place of residence shall mean the street and number of the residence. If there is no street and number for the residence, place of residence shall mean the mailing address.

Section 18-2509
Prospective petition, defined.

Prospective petition shall mean a sample document containing the information necessary for a completed petition, including a sample signature sheet, which has not yet been authorized for circulation.

Section 18-2510
Qualified electors, defined.

Qualified electors shall mean all persons registered to vote, at the time the prospective petition is filed, in the jurisdiction governed or to be governed by any measure sought to be enacted by initiative, or altered or repealed by referendum.

Section 18-2510.01***Residence, defined.***

Residence shall mean that place at which a person has established his or her home, where he or she is habitually present, and to which, when he or she departs, he or she intends to return.

Section 18-2511***Signature sheet, defined.***

Signature sheet shall mean a sheet of paper which is part of a petition and which is signed by persons wishing to support the petition effort.

Section 18-2512***Prospective petition; filing; city clerk; duties; revision; procedure; verification; effect.***

Before circulating an initiative or referendum petition, the petitioner shall file with the city clerk a prospective petition. The city clerk shall date the prospective petition immediately upon its receipt. The city clerk shall verify that the prospective petition is in proper form and shall provide a ballot title for the initiative or referendum proposal, pursuant to section 18-2513. If the prospective petition is in proper form, the city clerk shall authorize the circulation of the petition and such authorization shall be given within three working days from the date the prospective petition was filed. If the form of the prospective petition is incorrect, the city clerk shall, within three working days from the date the prospective petition was filed, inform the petitioner of necessary changes and request that those changes be made. When the requested changes have been made and the revised prospective petition has been submitted to the city clerk in proper form, the city clerk shall authorize the circulation of the petition and such authorization shall be given within two working days from the receipt of the properly revised petition. Verification by the city clerk that the prospective petition is in proper form does not constitute an admission by the city clerk, governing body, or municipality that the measure is subject to referendum or limited referendum or that the measure may be enacted by initiative.

Section 18-2513***Ballot title; contents; ballots; form.***

(1) The ballot title of any measure to be initiated or referred shall consist of:

(a) A briefly worded caption by which the measure is commonly known or which accurately summarizes the measure;

(b) A briefly worded question which plainly states the purpose of the measure and is phrased so that an affirmative response to the question corresponds to an affirmative vote on the measure; and

(c) A concise and impartial statement, of not more than seventy-five words, of the chief purpose of the measure.

(2) The ballots used when voting on an initiative or referendum proposal shall contain the entire ballot title. Proposals for initiative and referendum shall be submitted on separate ballots and the ballots shall be printed in lowercase ten-point type, except that the caption shall be in boldface type. All initiative and referendum measures shall be submitted in a nonpartisan manner without indicating or suggesting on the ballot that they have or have not been approved or endorsed by any political party or organization.

Section 18-2514

Petitions; form; Secretary of State; duties; copies.

The Secretary of State shall design the form to be used for initiative and referendum petitions. The petitions shall conform to section 32-628. These forms shall be made available to the public by the city clerk, and they shall serve as a guide for individuals preparing prospective petitions. Substantial compliance with initiative and referendum forms is required before authorization to circulate such petition shall be granted by the city clerk pursuant to section 18-2512. Chief petitioners or circulators preparing prospective petitions shall be responsible for making copies of the petition for circulation after authorization for circulation has been granted.

Section 18-2515

Petition; contents; chief petitioners or sponsors; requirements.

(1) Each petition presented for signature must be identical to the petition authorized for circulation by the city clerk pursuant to section 18-2512.

(2) Every petition shall contain the name and place of residence of not more than three persons as chief petitioners or sponsors of the measure. The chief petitioners or sponsors shall be qualified electors of the municipal subdivision potentially affected by the initiative or referendum proposal.

(3) Every petition shall contain the caption and the statement specified in subdivisions (1)(a) and (1)(c) of section 18-2513.

(4) When a special election is being requested, such fact shall be stated on every petition.

Section 18-2516

Signature sheet; requirements.

Every signature sheet shall:

(1) Contain the caption required in subdivision (1)(a) of section 18-2513;

(2) Be part of a complete and authorized petition when presented to potential signatories; and

(3) Comply with the requirements of section 32-628.

Section 18-2517***Petition; signers and circulators; requirements.***

Signers and circulators shall comply with sections 32-629 and 32-630.

Section 18-2518***Petition; filed; signature verification; costs; time limitation.***

(1) Signed petitions shall be filed with the city clerk for signature verification. Upon the filing of a petition, a city, upon passage of a resolution by the governing body of such city, and the county clerk or election commissioner of the county in which such city is located may by mutual agreement provide that the county clerk or election commissioner shall ascertain whether the petition is signed by the requisite number of voters. The city shall reimburse the county for any costs incurred by the county clerk or election commissioner. When the verifying official has determined that one hundred percent of the necessary signatures required by sections 18-2501 to 18-2537 have been obtained, he or she shall notify the municipal subdivision's governing body of that fact, and shall immediately forward to the governing body a copy of the petition.

(2) In order for an initiative or referendum proposal to be submitted to the governing body and the voters, the necessary signatures shall be on file with the city clerk within six months from the date the prospective petition was authorized for circulation. If the necessary signatures are not obtained by such date, the petition shall be void.

Section 18-2519***Measure; resubmission; limitation.***

The same measure, either in form or in essential substance, may not be submitted to the people by initiative petition, either affirmatively or negatively, more often than once every two years. No attempt to repeal or alter an existing measure or portion of such measure by referendum petition may be made within two years from the last attempt to do the same. Such prohibition shall apply only when the subsequent attempt to repeal or alter is designed to accomplish the same, or essentially the same purpose as the previous attempt.

Section 18-2520***Measure submitted to voters by municipal subdivision; procedure; approval.***

(1) Except as provided in subsection (2) of this section, the executive officer and governing body of a municipal subdivision may at any time, by resolution, provide for the submission to a direct vote of the electors of any measure pending before it, passed by it, including an override of any veto, if necessary, or enacted by the electors under sections 18-2501 to 18-2538 and may provide in such resolution that such measure shall be submitted at a special election or the next regularly scheduled primary or general election. Immediately upon the passage of any such resolution for submission, the city clerk shall cause such measure to be submitted to a direct vote of the electors, at the time specified in such resolution and in the manner provided in sections 18-2501 to 18-2538 for submission of measures upon proposals and

petitions filed by voters. Such matter shall become law if approved by a majority of the votes cast.

(2) The executive officer and governing body of a municipal subdivision shall not submit to a direct vote of the electors the question of whether the municipal subdivision should initiate proceedings for the condemnation of a natural gas system.

Section 18-2521

Elections; when held; city clerk; duties; notice; form.

Elections under sections 18-2501 to 18-2538, either at a special election or regularly scheduled primary or general election, shall be called by the city clerk. Any special election to be conducted by the election commissioner or county clerk shall be subject to section 32-405.

The city clerk shall cause notice of every such election to be printed in one or more newspapers of general circulation in such municipal subdivision at least once not less than thirty days prior to such election and also posted in the office of the city clerk and in at least three conspicuous places in such municipal subdivision at least thirty days prior to such election. The notice shall be substantially as follows:

Notice is hereby given that on Tuesday, the day of 20...., at (identify polling place or precinct) of the city (or village) of, Nebraska, an election will be held at which there will be submitted to the electors of the municipality for their approval or rejection, the following measures, propositions, or issues:

.....
.....
(naming measures, propositions, or issues), which election will be open at 8 a.m. and will continue open until 8 p.m., of the same day.

Dated this day of 20.... .

.....
City (or Village) Clerk of
the City (or Village) of
....., Nebraska.

The city clerk shall make available for photocopying a copy in pamphlet form of measures initiated or referred. Such notice provided in this section shall designate where such a copy in pamphlet form may be obtained.

Section 18-2522

Ballots; preparation; form.

All ballots for use in special elections under sections 18-2501 to 18-2538 shall be prepared by the city clerk and furnished by the governing body, unless the governing body contracts with the county for such service, and shall be in form the same as provided by law for election of the executive officer and governing body of such municipal subdivision. When

ordinances under such sections are submitted to the electors at a regularly scheduled primary or general election, they shall be placed upon the official ballots as provided in sections 18-2501 to 18-2538.

Section 18-2523

Initiative powers; scope.

(1) The power of initiative allows citizens the right to enact measures affecting the governance of each municipal subdivision in the state. An initiative proposal shall not have as its primary or sole purpose the repeal or modification of existing law except if such repeal or modification is ancillary to and necessary for the adoption and effective operation of the initiative measure.

(2) An initiative shall not be effective if the direct or indirect effect of the passage of such initiative measure shall be to repeal or alter an existing law, or portion thereof, which is not subject to referendum or subject only to limited referendum pursuant to section 18-2528.

(3) The power of initiative shall extend to a measure to provide for the condemnation of an investor-owned natural gas system by a municipal subdivision when the condemnation would, if initiated by the governing body of the municipal subdivision, be governed by the provisions of the Municipal Natural Gas System Condemnation Act.

(4) An initiative measure to provide for the condemnation of an investor-owned natural gas system by a municipal subdivision shall be a measure to require the municipal subdivision to initiate and pursue condemnation proceedings subject to the provisions of the Municipal Natural Gas System Condemnation Act.

Section 18-2524

Initiative petition; failure of municipal governing body to pass; effect; regular or special election.

Whenever an initiative petition bearing signatures equal in number to at least fifteen percent of the qualified electors of a municipal subdivision has been filed with the city clerk and verified pursuant to section 18-2518, it shall be the duty of the municipal subdivision's governing body to consider passage of the measure contained in the petition, including an override of any veto, if necessary. If the governing body fails to pass the measure without amendment, including an override of any veto, if necessary, within thirty days from the date it received notification pursuant to section 18-2518, the city clerk shall cause the measure to be submitted to a vote of the people at the next regularly scheduled primary or general election held within the municipal subdivision. If the governing body desires to submit the measure to a vote of the people at a special election prior to the next regularly scheduled primary or general election held within the municipal subdivision, the governing body shall, by resolution, direct the city clerk to cause the measure to be submitted at a special election. Such resolution shall not be subject to referendum or limited referendum.

Section 18-2525

Initiative petition; request for special election; failure of municipal governing body to pass; effect.

Whenever an initiative petition bearing signatures equal in number to at least twenty percent of the qualified electors of a municipal subdivision, which petition requests that a special election be called to submit the initiative measure to a vote of the people, has been filed with the city clerk and verified pursuant to section 18-2518, it shall be the duty of the municipal subdivision's governing body to consider passage of the measure contained in the petition, including an override of any veto, if necessary. If the governing body fails to pass the measure, without amendment, including an override of any veto, if necessary, within thirty days from the date it received notification pursuant to section 18-2518, the city clerk shall cause the measure to be submitted to a vote of the people at a special election called for such purpose. Subject to the provisions of section 18-2521, the date of such election shall not be less than thirty nor more than sixty days from the date the governing body received notification pursuant to section 18-2518.

Section 18-2526

Adopted initiative measure; when effective; amendment or repeal; restrictions.

If a majority of the voters voting on the initiative measure shall vote in favor of such measure, it shall become a valid and binding measure of the municipal subdivision thirty days after certification of the election results, unless the governing body by resolution orders an earlier effective date or the measure itself provides for a later effective date, which resolution shall not be subject to referendum or limited referendum. A measure passed by such method shall not be amended or repealed except by two-thirds majority of the members of the governing body. No such attempt to amend or repeal shall be made within one year from the passage of the measure by the electors.

Section 18-2527

Referendum powers; scope.

The power of referendum allows citizens the right to repeal or amend existing measures, or portions thereof, affecting the governance of each municipal subdivision in the state.

Section 18-2528

Referendum; measures excluded; measures subject to limited referendum; procedure.

(1) The following measures shall not be subject to referendum or limited referendum:

(a) Measures necessary to carry out contractual obligations, including, but not limited to, those relating to the issuance of or provided for in bonds, notes, warrants, or other evidences of indebtedness, for projects previously approved by a measure which was, or is, subject to referendum or limited referendum or previously approved by a measure adopted prior to July 17, 1982;

(b) Measures relating to any industrial development projects, subsequent to measures giving initial approval to such projects;

(c) Measures adopting proposed budget statements following compliance with procedures set forth in the Nebraska Budget Act;

(d) Measures relating to the immediate preservation of the public peace, health, or safety which have been designated as urgent measures by unanimous vote of those present and voting of the municipal subdivision's governing body and approved by its executive officer;

(e) Measures relating to projects for which notice has been given as provided for in subsection (4) of this section and for which a sufficient referendum petition was not filed within the time limit stated in such notice or which received voter approval after the filing of such petition;

(f) Resolutions directing the city clerk to cause measures to be submitted to a vote of the people at a special election as provided in sections 18-2524 and 18-2529;

(g) Resolutions ordering an earlier effective date for measures enacted by initiative as provided in section 18-2526;

(h) Measures relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act by municipalities and which are necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidence of indebtedness;

(i) Measures that amend, supplement, change, modify, or repeal a zoning regulation, restriction, or boundary and are subject to protest as provided in section 14-405 or 19-905;

(j) Measures relating to personnel issues, including, but not limited to, establishment, modification, or elimination of any personnel position, policy, salary, or benefit and any hiring, promotion, demotion, or termination of personnel; and

(k) Measures relating to matters subject to the provisions of the Municipal Natural Gas System Condemnation Act.

(2) The following measures shall be subject to limited referendum:

(a) Measures in furtherance of a policy of the municipal subdivision or relating to projects previously approved by a measure which was subject to referendum or which was enacted by initiative or has been approved by the voters at an election, except that such measures shall not be subject to referendum or limited referendum for a period of one year after any such policy or project was approved at a referendum election, enacted by initiative, or approved by the voters at an election;

(b) Measures relating to the acquisition, construction, installation, improvement, or enlargement, including the financing or refinancing of the costs, of public ways, public property, utility systems, and other capital projects and measures giving initial approval for industrial development projects;

(c) Measures setting utility system rates and charges, except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidences of indebtedness, and pay rates and salaries for municipal subdivision employees other than the members of the governing body and the executive officer; and

(d) Measures relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act by municipalities except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidence of indebtedness.

(3) Measures subject to limited referendum shall ordinarily take effect thirty days after their passage by the governing body, including an override of any veto, if necessary. Referendum petitions directed at measures subject to limited referendum shall be filed for signature verification pursuant to section 18-2518 within thirty days after such measure's passage by the governing body, including an override of any veto, if necessary, or after notice is first published pursuant to subdivision (4)(c) of this section. If the necessary number of signatures as provided in section 18-2529 or 18-2530 has been obtained within the time limitation, the effectiveness of the measure shall be suspended unless approved by the voters.

(4) For any measure relating to the acquisition, construction, installation, improvement, or enlargement of public ways, public property, utility systems, or other capital projects or any measure relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act, a municipality may exempt all subsequent measures relating to the same project from the referendum and limited referendum procedures provided for in sections 18-2501 to 18-2537 by the following procedure:

(a) By holding a public hearing on the project, the time and place of such hearing being published at least once not less than five days prior to the date set for hearing in a newspaper of general circulation within the governing body's jurisdiction;

(b) By passage of a measure approving the project, including an override of a veto if necessary, at a meeting held on any date subsequent to the date of hearing; and

(c) After passage of such measure, including an override of a veto if necessary, by giving notice as follows: (i) For those projects for which applicable statutes require an ordinance or resolution of necessity, creating a district or otherwise establishing the project, notice shall be given for such project by including either as part of such ordinance or resolution or as part of any publicized notice concerning such ordinance or resolution a statement that the project as described in the ordinance or resolution is subject to limited referendum for a period of thirty days after the first publication of such notice and that, after such thirty-day period, the project

and measures related to it will not be subject to any further right of referendum; and (ii) for projects for which applicable statutes do not require an ordinance or resolution of necessity, notice shall be given by publication of a notice concerning such projects stating in general terms the nature of the project and the engineer's estimate of costs of such project and stating that the project described in the notice is subject to limited referendum for a period of thirty days after the first publication of such notice and that, after such thirty-day period, the project and measures related to it will not be subject to any further right of referendum. The notice required by subdivision (c)(ii) of this subsection shall be published in at least one newspaper of general circulation within the municipal subdivision and shall be published not later than fifteen days after passage by the governing body, including an override of a veto, if necessary, of a measure approving the project.

The right of a municipal subdivision to hold such a hearing prior to passage of the measure by the governing body and give such notice after passage of such measure by the governing body to obtain exemption for any particular project in a manner described in this subsection is optional, and no municipal subdivision shall be required to hold such a hearing or give such notice for any particular project.

(5) Nothing in subsections (2) and (4) of this section shall be construed as subjecting to limited referendum any measure related to matters subject to the provisions of the Municipal Natural Gas System Condemnation Act.

(6) All measures, except as provided in subsections (1), (2), and (4) of this section, shall be subject to the referendum procedure at any time after such measure has been passed by the governing body, including an override of a veto, if necessary, or enacted by the voters by initiative.

Section 18-2529

Referendum petition; failure of municipal governing body to act; effect; special election.

Whenever a referendum petition bearing signatures equal in number to at least fifteen percent of the qualified electors of a municipal subdivision has been filed with the city clerk and verified pursuant to section 18-2518, it shall be the duty of the municipal subdivision's governing body to reconsider the measure or portion of such measure which is the object of the referendum. If the governing body fails to repeal or amend the measure or portion thereof in the manner proposed by the referendum, including an override of any veto, if necessary, within thirty days from the date the governing body receives notification pursuant to section 18-2518, the city clerk shall cause the measure to be submitted to a vote of the people at the next regularly scheduled primary or general election held within the municipal subdivision. If the governing body desires to submit the measure to a vote of the people at a special election prior to the next regularly scheduled primary or general election held within the municipal subdivision, the governing body shall, by resolution, direct the clerk to cause the measure to be submitted at a special election. Such resolution shall not be subject to referendum or limited referendum.

Section 18-2530

Referendum petition; request for special election; failure of municipal governing body to act; effect.

Whenever a referendum petition bearing signatures equal in number to at least twenty percent of the qualified voters of a municipal subdivision, which petition requests that a special election be called to submit the referendum measure to a vote of the people, has been filed with the city clerk and verified pursuant to section 18-2518, it shall be the duty of the municipal subdivision's governing body to reconsider the measure or portion of such measure which is the object of the referendum. If the governing body fails to repeal or amend the measure or portion thereof, in the manner proposed by the referendum, including an override of any veto, if necessary, the city clerk shall cause the measure to be submitted to a vote of the people at a special election called for such purpose within thirty days from the date the governing body received notification pursuant to section 18-2518. Subject to the provisions of section 18-2521, the date of such special election shall not be less than thirty nor more than sixty days from the date the governing body received notification pursuant to section 18-2518.

Section 18-2531

Adopted referendum measure; reenactment or return to original form; restrictions; failure of referendum; effect.

If a majority of the electors voting on the referendum measure shall vote in favor of such measure, the law subject to the referendum shall be repealed or amended. A measure repealed or amended by referendum shall not be reenacted or returned to its original form except by a two-thirds majority of the members of the governing body. No such attempt to reenact or return the measure to its original form shall be made within one year of the repeal or amendment of the measure by the electors. If the referendum measure does not receive a majority vote, the ordinance shall immediately become effective or remain in effect.

Section 18-2532

False affidavit; false oath; penalty.

Whoever knowingly or willfully makes a false affidavit or takes a false oath regarding the qualifications of any person to sign petitions under sections 18-2501 to 18-2531 shall be guilty of a Class I misdemeanor with a limit of three hundred dollars on the fine.

Section 18-2533

Petitions; illegal acts; penalty.

Whoever falsely makes or willfully destroys a petition or any part thereof, or signs a false name thereto, or signs or files any petition knowing the same or any part thereof to be falsely made, or suppresses any petition, or any part thereof, which has been duly filed, pursuant to sections 18-2501 to 18-2531 shall be guilty of a Class I misdemeanor with a limit of five hundred dollars on the fine.

Section 18-2534***Signing of petition; illegal acts; penalty.***

Whoever signs any petition under sections 18-2501 to 18-2533, knowing that he or she is not a registered voter in the place where such petition is made, aids or abets any other person in doing any of the acts mentioned in this section, bribes or gives or pays any money or thing of value to any person directly or indirectly to induce him or her to sign such petition, or engages in any deceptive practice intended to induce any person to sign a petition, shall be guilty of a Class I misdemeanor with a limit of three hundred dollars on the fine.

Section 18-2535***City clerk; illegal acts; penalty.***

Any city clerk who willfully refuses to comply with the provisions of sections 18-2501 to 18-2531 and 18-2538 or who willfully causes unreasonable delay in the execution of his or her duties under such sections shall be guilty of a Class I misdemeanor, but imprisonment shall not be included as part of the punishment.

Section 18-2536***Election Act; applicability.***

The Election Act, so far as applicable and when not in conflict with sections 18-2501 to 18-2531, shall apply to voting on ordinances by the registered voters pursuant to such sections.

Section 18-2537***Sections; inapplicability.***

Nothing in sections 18-2501 to 18-2536 shall apply to procedures for initiatives or referendums provided in sections 14-210 to 14-212 relating to metropolitan-class cities, sections 18-412 and 18-412.02 relating to municipal light and power plants, sections 70-504 and 70-650.01 relating to public power districts, and sections 80-203 to 80-205 relating to soldiers and sailors monuments.

Section 18-2538***Declaratory judgment; procedure; effect.***

The municipality or any chief petitioner may seek a declaratory judgment regarding any questions arising under Chapter 18, article 25, as it may be from time to time amended, including, but not limited to, determining whether a measure is subject to referendum or limited referendum or whether a measure may be enacted by initiative. If a chief petitioner seeks a declaratory judgment, the municipality shall be served as provided in section 25-510.02. If the municipality seeks a declaratory judgment, only the chief petitioner or chief petitioners shall be required to be served. Any action brought for declaratory judgment for purposes of determining whether a measure is subject to limited referendum or referendum, or whether a measure may be enacted by initiative, may be filed in the district court at any time after the filing of a referendum or initiative petition with the city clerk for signature verification until forty days from the date

the governing body received notification pursuant to section 18-2518. If the municipality does not bring an action for declaratory judgment to determine whether the measure is subject to limited referendum or referendum, or whether the measure may be enacted by initiative until after it has received notification pursuant to section 18-2518, it shall be required to proceed with the initiative or referendum election in accordance with sections 18-2501 to 18-2537 and this section. If the municipality does file such an action prior to receiving notification pursuant to section 18-2518, it shall not be required to proceed to hold such election until a final decision has been rendered in the action. Any action for a declaratory judgment shall be governed generally by sections 25-21,149 to 25-21,164, as amended from time to time, except that only the municipality and each chief petitioner shall be required to be made parties. The municipality, city clerk, governing body, or any of the municipality's officers shall be entitled to rely on any order rendered by the court in any such proceeding. Any action brought for declaratory judgment pursuant to this section shall be given priority in scheduling hearings and in disposition as determined by the court. When an action is brought to determine whether the measure is subject to limited referendum or referendum, or whether a measure may be enacted by initiative, a decision shall be rendered by the court no later than five days prior to the election. The provisions of this section relating to declaratory judgments shall not be construed as limiting, but construed as supplemental and additional to other rights and remedies conferred by law.

TAB 5 - ELECTIONS

17-202	Board of trustees; election; terms.
17-203	Board of trustees; qualifications.
19-3101	City council or board of trustees; vacancy; when.
32-532	Village board of trustees; terms; qualifications.
32-557	City, village, and school officers; partisan ballot; when allowed; requirements.
32-558	City, village, and school elections; ballots; results; certificates of nomination or election.
32-559	Political subdivision; special election; procedure.
32-560	Elective office; vacancy; when.
32-569	Vacancies in city and village elected offices; procedure for filling.
32-601	Political subdivision; offices to be filled; filing deadlines; notices required.
32-602	Candidate; general requirements; limitation on filing for office.
32-606	Candidate filing form; filing period.
32-607	Candidate filing forms; contents; filing officers.
32-608	Filing fees; payment; amount; not required; when; refund; when allowed.

ELECTIONS

Section 17-202

Board of trustees; election; terms.

The corporate powers and duties of every village shall be vested in the board of trustees which shall consist of five members. At the first statewide general election held after the incorporation of a village, two trustees shall be elected to serve two years and three trustees shall be elected to serve four years. Thereafter the board members shall be elected as provided in the Election Act. The terms shall begin on the first regular meeting of the board in December following the statewide general election. The terms of board members holding office on April 27, 1995, shall be extended to the first regular meeting of the board in December following the statewide general election. The changes made to this section by Laws 1994, LB 76, and Laws 1995, LB 194, shall not change the staggering of the terms of the board members in villages established prior to January 1, 1995.

Section 17-203

Board of trustees; qualifications.

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

Section 19-3101

City council or board of trustees; vacancy; when.

In all cities of the first and second classes and villages regardless of the form of government, in addition to the events listed in section 32-560 and any other reasons for a vacancy provided by law, after notice and a hearing, a vacancy on the city council or board of trustees shall exist if a member is absent from more than five consecutive regular meetings of the council or board unless the absences are excused by a majority vote of the remaining members.

Section 32-532

Village board of trustees; terms; qualifications.

The members of a village board of trustees shall be elected at the statewide general election as provided in section 17-202 and each four years thereafter. Except as provided in such section, the term of each board member shall be four years or until his or her successor is elected and qualified. The board members shall meet the qualifications found in section 17-203.

Section 32-557

City, village, and school officers; partisan ballot; when allowed; requirements.

All elective city, village, and school officers shall be nominated and elected on a nonpartisan ballot unless a city or village provides for a partisan ballot by ordinance. No

ordinance providing for nomination and election on a partisan ballot shall permit affiliation with any party not recognized as a political party for purposes of the Election Act. Such ordinance providing for nomination and election on a partisan ballot shall be adopted and effective not less than sixty days prior to the filing deadline.

Section 32-558

City, village, and school elections; ballots; results; certificates of nomination or election.

City, village, and school district ballots shall be prepared for each city, village, or school election. The election commissioner, county clerk, or city or village clerk may certify and deliver all ballots, including ballots for early voting, across county lines to the election commissioner, county clerk, or city or village clerk in the adjoining county. The election commissioner, county clerk, or city or village clerk shall certify the results and shall issue certificates of nomination or election to the successful candidates.

Section 32-559

Political subdivision; special election; procedure.

Except as provided in section 77-3444, any issue to be submitted to the registered voters at a special election by a political subdivision shall be certified by the clerk of the political subdivision to the election commissioner or county clerk at least fifty days prior to the election. A special election may be held by mail as provided in sections 32-952 to 32-959. Any other special election under this section shall be subject to section 32-405.

In lieu of submitting the issue at a special election, any political subdivision 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 clerk of the political subdivision to the election commissioner or county clerk by March 1 for the primary election and by September 1 for the general election. After the election commissioner or county clerk has received the certification of the issue to be submitted, he or she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the clerk of the political subdivision shall be responsible for the publication or posting of any required special notice of the submission of such issue other than the notice required to be given of the statewide election issues. The election commissioner or county clerk shall prepare the ballots and issue ballots for early voting and shall also conduct the submission of the issue, including the receiving and counting of the 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 governing body of the political subdivision. The canvass by the county canvassing board shall have the same force and effect as if made by the governing body of the political subdivision.

Section 32-560***Elective office; vacancy; when.***

Every elective office shall be vacant, except as provided in section 32-561, upon the happening of any one of the following events at any time before the expiration of the term of such office:

- (1) Resignation of the incumbent;
- (2) Death of the incumbent;
- (3) Removal of the incumbent from office;
- (4) Decision of a competent tribunal declaring the office of the incumbent vacant;
- (5) Incumbent ceasing to be a resident of the state, district, county, township, or precinct in which the duties of his or her office are to be exercised or for which he or she may have been elected;
- (6) Failure to elect at an election when there is no incumbent to continue in office until his or her successor is elected and qualified;
- (7) The candidate who received the highest number of votes is ineligible, disqualified, deceased, or for any other reason unable to assume the office for which he or she was a candidate;
- (8) Forfeiture of office as provided by law;
- (9) Conviction of a felony or of any public offense involving the violation of the oath of office of the incumbent; or
- (10) Incumbent of a high elective office assuming another elective office as provided in subsections (2) through (4) of section 32-604.

SECTION 32-569***Vacancies in city and village elected offices; procedure for filling.***

(1) (a) Except as otherwise provided in subsection (2) or (3) of this section or section 32-568, vacancies in city and village elected offices shall be filled by the mayor and council or board of trustees 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 council or board of trustees at a regular or special meeting and shall appear as a part of the minutes of such meeting. The council or board of trustees shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the city or village or by posting in three public places in the city or village the office vacated and the length of the unexpired term.

(b) The mayor or chairperson of the board shall call a special meeting of the council or board of trustees or place the issue of filling such vacancy on the agenda at the next regular meeting at which time the mayor or chairperson 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 notice of vacancy has been presented. The council or board of trustees 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 mayor or chairperson 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 mayor or chairperson shall continue at such meeting to submit the names of qualified registered voters in nomination and the council or board of trustees shall continue to vote upon such nominations at such meeting until the vacancy is filled. The mayor shall cast his or her vote for or against the nominee in the case of a tie vote of the council. All council members and trustees present shall cast a ballot for or against the nominee. Any member of the city council or board of trustees who has been appointed to fill a vacancy on the council or board shall have the same rights, including voting, as if such person were elected.

(2) The mayor and council or chairperson and board of trustees may, in lieu of filling a vacancy in a city or village elected office as provided in subsection (1) of this section or subsection (3) of section 32-568, call a special city election to fill such vacancy.

(3) If vacancies exist in the offices of a majority of the members of a city council or village board, the Secretary of State shall conduct a special city election to fill such vacancies.

Section 32-601

Political subdivision; offices to be filled; filing deadlines; notices required.

Each political subdivision shall notify the election commissioner or county clerk of the offices to be filled no later than January 5 of any election year as provided in subsection (2) of section 32-404. The election commissioner or county clerk shall give notice of the offices to be filled by election and the filing deadlines for such offices by publication in at least one newspaper of general circulation in the county once at least fifteen days prior to such deadlines.

Section 32-602

Candidate; general requirements; limitation on filing for office.

(1) Any person seeking an elective office shall be a registered voter at the time of filing for the office pursuant to section 32-606 or 32-611.

(2) Any person filing for office shall meet the constitutional and statutory requirements of the office for which he or she is filing. If a person is filing for a partisan office, he or she shall be a registered voter affiliated with the appropriate political party if required pursuant to section 32-702. If the person is required to sign a contract or comply with a bonding or equivalent

commercial insurance policy requirement prior to holding such office, he or she shall be at least nineteen years of age at the time of filing for the office.

(3) A person shall not be eligible to file for an office if he or she holds the office and his or her term of office expires after the beginning of the term of office for which he or she would be filing. This subsection does not apply to filing for an office to represent a different district, ward, subdistrict, or subdivision of the same governmental entity as the office held at the time of filing.

(4) The governing body of the political subdivision swearing in the officer shall determine whether the person meets all requirements prior to swearing in the officer.

Statue 32-606

Candidate filing form; filing period.

(1) 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 section 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, except for candidates for election in 2013 to the board of education of a Class V school district. 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. Incumbent and nonincumbent candidates for election in 2013 to the board of education of a Class V school district and all other candidates shall file for office between December 1 and March 1 prior to the date of the primary election. A candidate filing form may be transmitted by facsimile for the offices listed in subdivision (1) of section 32-607 if (a) the transmission is received in the office of the filing officer by the filing deadline and (b) the original filing form is mailed to the filing officer with a legible postmark bearing a date on or prior to the filing deadline and is in the office of the filing officer no later than seven days after the filing deadline.

(2) Any candidate for a township office in a county under township organization, the board of trustees of a village, the board of directors of a reclamation district, the county weed district board, the board of directors of a public power district receiving annual gross revenue of less than forty million dollars, the school board of a Class II school district, or the board of an educational service unit 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 section 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. A candidate filing form may be transmitted by facsimile for the offices listed in subdivision (1) of section 32-607 if (a) the transmission is received in the office of the filing officer by the filing deadline and (b) the original filing form is mailed to the filing officer with a legible postmark bearing a date on or prior to the filing deadline and is in the office of the filing officer no later than seven days after the filing deadline.

(3) Any city having a home rule charter may provide for filing deadlines for any person desiring to be a candidate for the office of council member or mayor.

Section 32-607

Candidate filing forms; contents; filing officers.

All candidate filing forms shall contain the following statement: I hereby swear that I will abide by the laws of the State of Nebraska regarding the results of the primary and general elections, that I am a registered voter and qualified to be elected, and that I will serve if elected. Candidate filing forms shall also contain the candidate's name; residence address; mailing address if different from the residence address; telephone number; office sought; and party affiliation if the office sought is a partisan office. Candidate filing forms shall be filed with the following filing officers:

(1) For candidates for national, state, or congressional office, directors of public power and irrigation districts, directors of reclamation districts, directors of natural resources districts, members of the boards of educational service units, members of governing boards of community colleges, delegates to national conventions, and other offices filled by election held in more than one county and judges desiring retention, in the office of the Secretary of State;

(2) For officers elected within a county, in the office of the election commissioner or county clerk. If the candidate is not a resident of the county, he or she shall submit a certificate of registration obtained under section 32-316 with the candidate filing form;

(3) For officers in school districts which include land in adjoining counties, in the office of the election commissioner or county clerk of the county in which the greatest number of registered voters entitled to vote for the officers reside. If the candidate is not a resident of the county, he or she shall submit a certificate of registration obtained under section 32-316 with the candidate filing form; and

(4) For city or village officers, in the office of the election commissioner or county clerk.

Section 32-608

Filing fees; payment; amount; not required; when; refund; when allowed.

(1) Except as provided in subsection (4) or (5) of this section, a filing fee shall be paid by or on behalf of each candidate prior to filing for office. For candidates who file in the office of the Secretary of State as provided in subdivision (1) of section 32-607, the filing fee shall be paid to the Secretary of State who shall remit the fee to the State Treasurer for credit to the Election Administration Fund. For candidates for any city or village office, the filing fee shall be paid to the city or village treasurer of the city or village in which the candidate resides. For candidates who file in the office of the election commissioner or county clerk, the filing fee shall be paid to the election commissioner or county clerk in the county in which the office is sought. The election commissioner or county clerk shall remit the fee to the county treasurer. The fee shall be placed in the general fund of the county, city, or village. No candidate filing forms shall be filed until the proper payment or the proper receipt showing the payment of such filing fee is

presented to the filing officer. On the day of the filing deadline, the city or village treasurer's office shall remain open to receive filing fees until the hour of the filing deadline.

(2) Except as provided in subsection (4) or (5) of this section, the filing fees shall be as follows:

(a) For the office of United States Senator, state officers, including members of the Legislature, Representatives in Congress, county officers, and city or village officers, except the mayor or council members of cities having a home rule charter, a sum equal to one percent of the annual salary such candidate will receive if he or she is elected and qualifies for the office for which he or she files as a candidate;

(b) For directors of public power and irrigation districts in districts receiving annual gross revenue of forty million dollars or more, twenty-five dollars, and in districts receiving annual gross revenue of less than forty million dollars, ten dollars;

(c) For directors of reclamation districts, ten dollars; and

(d) For Regents of the University of Nebraska, members of the State Board of Education, and directors of metropolitan utilities districts, twenty-five dollars.

(3) 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 ten days after the canvass of votes by the county 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.

(4) No filing fee shall be required for 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 five hundred dollars per year. No filing fee shall be required for any candidate for membership on a school board, on the board of an educational service unit, on the board of governors of a community college area, on the board of directors of a natural resources district, or on the board of trustees of a sanitary and improvement district.

(5) No filing fee shall be required of any candidate completing an affidavit requesting to file for elective office in forma pauperis. A pauper shall mean a person whose income and other resources for maintenance are found under assistance standards to be insufficient for meeting the cost of his or her requirements and whose reserve of cash or other available resources does not exceed the maximum available resources that an eligible individual may own. Available resources shall include every type of property or interest in property that an individual owns and may convert into cash except:

(a) Real property used as a home;

(b) Household goods of a moderate value used in the home; and

(c) Assets to a maximum value of three thousand dollars used by a recipient in a planned effort directed towards self-support.

(6) 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 proper governing body prior to the date of the election. Upon approval of the claim by the proper governing body, the filing fee shall be refunded.

TAB 6 - RECALL

- 32-1301 Recall; filing clerk, defined.**
- 32-1302 Officials subject to recall.**
- 32-1303 Recall petition; signers and circulators; requirements; notification.**
- 32-1304 Petition papers; requirements.**
- 32-1305 Petition papers; filing; signature verification; procedure.**
- 32-1306 Filing clerk; notification required; recall election; when held; failure to order; effect.**
- 32-1307 Recall election; ballot.**
- 32-1308 Recall election; results; effect; vacancies; how filled.**
- 32-1309 Recall petition prohibited; when.**

RECALL

Section 32-1301

Recall; filing clerk, defined.

For purposes of sections 32-1301 to 32-1309, filing clerk shall mean the election commissioner or county clerk for recall of elected officers of cities, villages, counties, irrigation districts, natural resources districts, public power districts, school districts, community college areas, educational service units, hospital

Section 32-1302

Officials subject to recall.

(1) Except for trustees of sanitary and improvement districts, any elected official of a political subdivision and any elected member of the governing bodies of cities, villages, counties, irrigation districts, natural resources districts, public power districts, school districts, community college areas, educational service units, hospital districts, and metropolitan utilities districts may be removed from office by recall pursuant to sections 32-1301 to 32-1309. A trustee of a sanitary and improvement district may be removed from office by recall pursuant to sections 31-786 to 31-793.

(2) If due to reapportionment the boundaries of the area served by the official or body change, the recall procedure and special election provisions of sections 32-1301 to 32-1309 shall apply to the registered voters within the boundaries of the new area.

(3) The recall procedure and special election provisions of such sections shall apply to members of the governing bodies listed in subsection (1) of this section, other than sanitary and improvement districts, who are elected by precinct, district, or subdistrict of the political subdivision. Only registered voters of such member's precinct, district, or subdistrict may sign a recall petition or vote at the recall election. The recall election shall be held within the member's precinct, district, or subdistrict. When an elected member is nominated by precinct, district, or subdistrict in the primary election and elected at large in the general election, the recall provisions shall apply to the registered voters at the general election.

(4) The recall procedure and special election provisions shall apply to the mayor and members of the city council of municipalities with a home rule charter notwithstanding any contrary provisions of the home rule charter.

Section 32-1303

Recall petition; signers and circulators; requirements; notification.

(1) A petition demanding that the question of removing an elected official or member of a governing body listed in section 32-1302 be submitted to the registered voters shall be signed by registered voters equal in number to at least thirty-five percent of the total vote cast for that office in the last general election, except that (a) for an office for which more than one candidate

is chosen, the petition shall be signed by registered voters equal in number to at least thirty-five percent of the number of votes cast for the person receiving the most votes for such office in the last general election, (b) for a member of a board of a Class I school district, the petition shall be signed by registered voters of the school district equal in number to at least twenty-five percent of the total number of registered voters residing in the district on the date that the recall petitions are first checked out from the filing clerk by the principal circulator, and (c) for a member of a governing body of a village, the petition shall be signed by registered voters equal in number to at least forty-five percent of the total vote cast for the person receiving the most votes for that office in the last general election. The signatures shall be affixed to petition papers and shall be considered part of the petition.

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

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

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

(5) Petition signers shall conform to the requirements of sections 32-629 and 32-630. Each signer of a recall petition shall be a registered voter and qualified by his or her place of residence to vote for the office in question.

Section 32-1304

Petition papers; requirements.

(1) The Secretary of State shall design the uniform petition papers to be distributed by all filing clerks and shall keep a sufficient number of such blank petition papers on file for distribution to any filing clerk requesting recall petitions. The petition papers shall as nearly as possible conform to the requirements of section 32-628.

(2) In addition to the requirements specified in section 32-628, for the purpose of preventing fraud, deception, and misrepresentation, every sheet of each petition paper presented to a registered voter for his or her signature shall have upon it, above the lines for signatures, (a) a statement that the signatories must be registered voters qualified by residence to vote for the office in question and support the holding of a recall election and (b) in letters not smaller than sixteen-point type in red print (i) the name and office of the individual sought to be recalled, (ii) the reason or reasons for which recall is sought, (iii) the defense statement, if any, submitted by the official, and (iv) the name of the principal circulator or circulators of the recall petition. The decision of a county attorney to prosecute or not to prosecute any individual shall not be stated on a petition as a reason for recall.

(3) Every sheet of each petition paper presented to a registered voter for his or her signature shall have upon it, below the lines for signatures, an affidavit as required in subsection (3) of section 32-628 which also includes language substantially as follows: "and that the affiant stated to each signer, before the signer affixed his or her signature to the petition, the following: (a) The name and office of the individual sought to be recalled, (b) the reason or reasons for which recall is sought as printed on the petition, (c) the defense statement, if any, submitted by the official as printed on the petition, and (d) the name of the principal circulator or circulators of the recall petition".

(4) Each petition paper shall contain a statement entitled Instructions to Petition Circulators prepared by the Secretary of State to assist circulators in understanding the provisions governing the petition process established by sections 32-1301 to 32-1309. The instructions shall include the following statements:

(a) No one circulating this petition paper in an attempt to gather signatures shall sign the circulator's affidavit unless each person who signed the petition paper did so in the presence of the circulator.

(b) No one circulating this petition paper in an attempt to gather signatures shall allow a person to sign the petition until the circulator has stated to the person (i) the object of the petition as printed on the petition, (ii) the name and office of the individual sought to be recalled, (iii) the reason or reasons for which recall is sought as printed on the petition, (iv) the defense statement, if any, submitted by the official as printed on the petition, and (v) the name of the principal circulator or circulators of the recall petition.

Section 32-1305***Petition papers; filing; signature verification; procedure.***

(1) The principal circulator or circulators shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the filing clerk within thirty days after the filing clerk issues the initial petition papers to the principal circulator or circulators as provided in section 32-1303.

(2) If the filing clerk is the subject of a recall petition, the signature verification process shall be conducted by two election commissioners or county clerks appointed by the Secretary of State. Mileage and expenses incurred by officials appointed pursuant to this subsection shall be reimbursed by the political subdivision involved in the recall.

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

Section 32-1306***Filing clerk; notification required; recall election; when held; failure to order; effect.***

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

(2) The governing body of the political subdivision shall order an election to be held not less than thirty nor more than seventy-five days after the notification of the official whose removal is sought under subsection (1) of this section, except that if any other election is to be held in that political subdivision within ninety days after such notification, the governing body of the political subdivision shall provide for the holding of the recall election on the same day. All resignations shall be tendered as provided in section 32-562. If the official whose removal is sought resigns before the recall election is held, the governing body may cancel the recall election if the governing body notifies the election commissioner or county clerk of the cancellation at least sixteen days prior to the election, otherwise the recall election shall be held as scheduled.

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

Section 32-1307

Recall election; ballot.

The form of the official ballot at a recall election held pursuant to section 32-1306 shall conform to the requirements of this section. With respect to each person whose removal is sought, the question shall be submitted: Shall (name of person) be removed from the office of (name of office)? Immediately following each such question there shall be printed on the ballot the two responses: Yes and No. Next to each response shall be placed a square or oval in which the registered voters may vote for one of the responses by making a cross or other clear, identifiable mark. The name of the official which shall appear on the ballot shall be the name of the official that appeared on the ballot of the previous general election that included his or her name.

Section 32-1308

Recall election; results; effect; vacancies; how filled.

(1) If a majority of the votes cast at a recall election are against the removal of the official named on the ballot or the election results in a tie, the official shall continue in office for the remainder of his or her term but may be subject to further recall attempts as provided in section 32-1309.

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

(3) If the election results show a margin of votes equal to one percent or less between the removal or retention of the official in question, the Secretary of State, election commissioner, or county clerk shall order a recount of the votes cast unless the official named on the ballot files a written statement with the filing clerk that he or she does not want a recount.

(4) If there are vacancies in the offices of a majority or more of the members of any governing body at one time due to the recall of such members, a special election to fill such vacancies shall be conducted as expeditiously as possible by the Secretary of State, election commissioner, or county clerk.

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

Section 32-1309***Recall petition prohibited; when.***

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

TAB 7 - PUBLIC RECORDS

84-712	Public records; free examination; memorandum and abstracts; copies; fees.
84-712.01	Public records; right of citizens; full access; fee authorized.
84-712.02	Public records; claimants before United States Department of Veterans Affairs; certified copies free of charge.
84-712.03	Public records; denial of rights; remedies.
84-712.04	Public records; denial of rights; public body; provide information.
84-712.05	Records which may be withheld from the public; enumerated.
84-712.06	Public record; portion provide; when.
84-712.07	Public records; public access; equitable relief; attorney's fees; costs.
84-712.08	Records; federal government; exception.
84-712.09	Violation; penalty.

PUBLIC RECORDS

Section 84-712

Public records; free examination; memorandum and abstracts; copies; fees.

(1) Except as otherwise expressly provided by statute, all citizens of this state and all other persons interested in the examination of the public records as defined in section 84-712.01 are hereby fully empowered and authorized to (a) examine such records, and make memoranda, copies using their own copying or photocopying equipment in accordance with subsection (2) of this section, and abstracts therefrom, all free of charge, during the hours the respective offices may be kept open for the ordinary transaction of business and (b) except if federal copyright law otherwise provides, obtain copies of public records in accordance with subsection (3) of this section during the hours the respective offices may be kept open for the ordinary transaction of business.

(2) Copies made by citizens or other persons using their own copying or photocopying equipment pursuant to subdivision (1)(a) of this section shall be made on the premises of the custodian of the public record or at a location mutually agreed to by the requester and the custodian.

(3) (a) Copies may be obtained pursuant to subdivision (1)(b) of this section only if the custodian has copying equipment reasonably available. Such copies may be obtained in any form designated by the requester in which the public record is maintained or produced, including, but not limited to, printouts, electronic data, discs, tapes, and photocopies. This section shall not be construed to require a custodian to copy any public record that is available to the requester on the custodian's web site on the Internet. The custodian of the public record is required to provide the location of the public record on the Internet to the requester. If the requester does not have reasonable access to the Internet due to lack of computer, lack of Internet availability, or inability to use a computer or the Internet, the custodian shall produce copies for the requester.

(b) Except as otherwise provided by statute, the public body, public entity, or public official which is the custodian of a public record may charge a fee for providing copies of such public record pursuant to subdivision (1)(b) of this section, which fee shall not exceed the actual added cost of making the copies available. For purposes of this subdivision, (i) for photocopies, the actual added cost of making the copies available shall not exceed the amount of the reasonably calculated actual added cost of the photocopies, which may include a reasonably apportioned cost of the supplies, such as paper, toner, and equipment, used in preparing the copies, as well as any additional payment obligation of the custodian for time of contractors necessarily incurred to comply with the request for copies, (ii) for printouts of computerized data on paper, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of computer run time and the cost of materials for making the copy, and (iii) for electronic data, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of the computer run time, any necessary analysis and

programming by the public body, public entity, public official, or third-party information technology services company contracted to provide computer services to the public body, public entity, or public official, and the production of the report in the form furnished to the requester.

(c) The actual added cost used as the basis for the calculation of a fee for records shall not include any charge for the existing salary or pay obligation to the public officers or employees with respect to the first four cumulative hours of searching, identifying, physically redacting, or copying. A special service charge reflecting the calculated labor cost may be included in the fee for time required in excess of four cumulative hours, since that large a request may cause some delay or disruption of the other responsibilities of the custodian's office, except that the fee for records shall not include any charge for the services of an attorney to review the requested public records seeking a legal basis to withhold the public records from the public.

(d) State agencies which provide electronic access to public records through a portal established under section 84-1204 shall obtain approval of their proposed reasonable fees for such records pursuant to sections 84-1205.02 and 84-1205.03, if applicable, and the actual added cost of making the copies available may include the approved fee for the portal.

(e) This section shall not be construed to require a public body or custodian of a public record to produce or generate any public record in a new or different form or format modified from that of the original public record.

(f) If copies requested in accordance with subdivision (1)(b) of this section are estimated by the custodian of such public records to cost more than fifty dollars, the custodian may require the requester to furnish a deposit prior to fulfilling such request.

(4) Upon receipt of a written request for access to or copies of a public record, the custodian of such record shall provide to the requester as soon as is practicable and without delay, but not more than four business days after actual receipt of the request, an estimate of the expected cost of the copies and either (a) access to or, if copying equipment is reasonably available, copies of the public record, (b) if there is a legal basis for denial of access or copies, a written denial of the request together with the information specified in section 84-712.04, or (c) if the entire request cannot with reasonable good faith efforts be fulfilled within four business days after actual receipt of the request due to the significant difficulty or the extensiveness of the request, a written explanation, including the earliest practicable date for fulfilling the request, an estimate of the expected cost of any copies, and an opportunity for the requester to modify or prioritize the items within the request. The requester shall have ten business days to review the estimated costs, including any special service charge, and request the custodian to fulfill the original request, negotiate with the custodian to narrow or simplify the request, or withdraw the request. If the requester does not respond to the custodian within ten business days, the custodian shall not proceed to fulfill the request. The four business days shall be computed by excluding the day the request is received, after which the designated period of time begins to run. Business day does not include a Saturday, a Sunday, or a day during which the offices of the custodian of the public records are closed.

Section 84-712.01***Public records; right of citizens; full access; fee authorized.***

(1) Except when any other statute expressly provides that particular information or records shall not be made public, public records shall include all records and documents, regardless of physical form, of or belonging to this state, any county, city, village, political subdivision, or tax-supported district in this state, or any agency, branch, department, board, bureau, commission, council, subunit, or committee of any of the foregoing. Data which is a public record in its original form shall remain a public record when maintained in computer files.

(2) When a custodian of a public record of a county provides to a member of the public, upon request, a copy of the public record by transmitting it from a modem to an outside modem, a reasonable fee may be charged for such specialized service. Such fee may include a reasonable amount representing a portion of the amortization of the cost of computer equipment, including software, necessarily added in order to provide such specialized service. This subsection shall not be construed to require a governmental entity to acquire computer capability to generate public records in a new or different form when that new form would require additional computer equipment or software not already possessed by the governmental entity.

(3) Sections 84-712 to 84-712.03 shall be liberally construed whenever any state, county, or political subdivision fiscal records, audit, warrant, voucher, invoice, purchase order, requisition, payroll, check, receipt, or other record of receipt, cash, or expenditure involving public funds is involved in order that the citizens of this state shall have the full right to know of and have full access to information on the public finances of the government and the public bodies and entities created to serve them.

Section 84-712.02***Public records; claimants before United States Department of Veterans Affairs; certified copies free of charge.***

When it is requested by any claimant before the United States Department of Veterans Affairs or his or her agent or attorney that certified copies of any public record be furnished for the proper and effective presentation of any such claim in such department, the officer in charge of such public records shall furnish or cause to be furnished to such claimant or his or her agent or attorney a certified copy thereof free of charge.

Section 84-712.03***Public records; denial of rights; remedies.***

(1) Any person denied any rights granted by sections 84-712 to 84-712.03 may elect to:

(a) File for speedy relief by a writ of mandamus in the district court within whose jurisdiction the state, county, or political subdivision officer who has custody of the public record can be served; or

(b) Petition the Attorney General to review the matter to determine whether a record may be withheld from public inspection or whether the public body that is custodian of such record has otherwise failed to comply with such sections, including whether the fees estimated or charged by the custodian are actual added costs or special service charges as provided under section 84-712. This determination shall be made within fifteen calendar days after the submission of the petition. If the Attorney General determines that the record may not be withheld or that the public body is otherwise not in compliance, the public body shall be ordered to disclose the record immediately or otherwise comply. If the public body continues to withhold the record or remain in noncompliance, the person seeking disclosure or compliance may (i) bring suit in the trial court of general jurisdiction or (ii) demand in writing that the Attorney General bring suit in the name of the state in the trial court of general jurisdiction for the same purpose. If such demand is made, the Attorney General shall bring suit within fifteen calendar days after its receipt. The requester shall have an absolute right to intervene as a full party in the suit at any time.

(2) In any suit filed under this section, the court has jurisdiction to enjoin the public body from withholding records, to order the disclosure, and to grant such other equitable relief as may be proper. The court shall determine the matter de novo and the burden is on the public body to sustain its action. The court may view the records in controversy in camera before reaching a decision, and in the discretion of the court other persons, including the requester, counsel, and necessary expert witnesses, may be permitted to view the records, subject to necessary protective orders.

(3) Proceedings arising under this section, except as to the cases the court considers of greater importance, shall take precedence on the docket over all other cases and shall be assigned for hearing, trial, or argument at the earliest practicable date and expedited in every way.

Section 84-712.04

Public records; denial of rights; public body; provide information.

(1) Any person denied any rights granted by sections 84-712 to 84-712.03 shall receive in written form from the public body which denied the request for records at least the following information:

(a) A description of the contents of the records withheld and a statement of the specific reasons for the denial, correlating specific portions of the records to specific reasons for the denial, including citations to the particular statute and subsection thereof expressly providing the exception under section 84-712.01 relied on as authority for the denial;

(b) The name of the public official or employee responsible for the decision to deny the request; and

(c) Notification to the requester of any administrative or judicial right of review under section 84-712.03.

(2) Each public body shall maintain a file of all letters of denial of requests for records. This file shall be made available to any person on request.

Section 84-712.05

Records which may be withheld from the public; enumerated.

The following records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records:

(1) Personal information in records regarding a student, prospective student, or former student of any educational institution or exempt school that has effectuated an election not to meet state approval or accreditation requirements pursuant to section 79-1601 when such records are maintained by and in the possession of a public entity, other than routine directory information specified and made public consistent with 20 U.S.C. 1232g, as such section existed on February 1, 2013, and regulations adopted thereunder;

(2) Medical records, other than records of births and deaths and except as provided in subdivision (5) of this section, in any form concerning any person; records of elections filed under section 44-2821; and patient safety work product under the Patient Safety Improvement Act;

(3) Trade secrets, academic and scientific research work which is in progress and unpublished, and other proprietary or commercial information which if released would give advantage to business competitors and serve no public purpose;

(4) Records which represent the work product of an attorney and the public body involved which are related to preparation for litigation, labor negotiations, or claims made by or against the public body or which are confidential communications as defined in section 27-503;

(5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training, except that this subdivision shall not apply to records so developed or received relating to the presence of and amount or concentration of alcohol or drugs in any body fluid of any person;

(6) Appraisals or appraisal information and negotiation records concerning the purchase or sale, by a public body, of any interest in real or personal property, prior to completion of the purchase or sale;

(7) Personal information in records regarding personnel of public bodies other than salaries and routine directory information;

(8) Information solely pertaining to protection of the security of public property and persons on or within public property, such as specific, unique vulnerability assessments or specific, unique response plans, either of which is intended to prevent or mitigate criminal acts the public disclosure of which would create a substantial likelihood of endangering public safety or property; computer or communications network schema, passwords, and user identification names; guard schedules; lock combinations; or public utility infrastructure specifications or design drawings the public disclosure of which would create a substantial likelihood of endangering public safety or property, unless otherwise provided by state or federal law;

(9) The security standards, procedures, policies, plans, specifications, diagrams, access lists, and other security-related records of the Lottery Division of the Department of Revenue and those persons or entities with which the division has entered into contractual relationships. Nothing in this subdivision shall allow the division to withhold from the public any information relating to amounts paid persons or entities with which the division has entered into contractual relationships, amounts of prizes paid, the name of the prize winner, and the city, village, or county where the prize winner resides;

(10) With respect to public utilities and except as provided in sections 43-512.06 and 70-101, personally identified private citizen account payment and customer use information, credit information on others supplied in confidence, and customer lists;

(11) Records or portions of records kept by a publicly funded library which, when examined with or without other records, reveal the identity of any library patron using the library's materials or services;

(12) Correspondence, memoranda, and records of telephone calls related to the performance of duties by a member of the Legislature in whatever form. The lawful custodian of the correspondence, memoranda, and records of telephone calls, upon approval of the Executive Board of the Legislative Council, shall release the correspondence, memoranda, and records of telephone calls which are not designated as sensitive or confidential in nature to any person performing an audit of the Legislature. A member's correspondence, memoranda, and records of confidential telephone calls related to the performance of his or her legislative duties shall only be released to any other person with the explicit approval of the member;

(13) Records or portions of records kept by public bodies which would reveal the location, character, or ownership of any known archaeological, historical, or paleontological site in Nebraska when necessary to protect the site from a reasonably held fear of theft, vandalism, or trespass. This section shall not apply to the release of information for the purpose of scholarly research, examination by other public bodies for the protection of the resource or by recognized tribes, the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or the federal Native American Graves Protection and Repatriation Act;

(14) Records or portions of records kept by public bodies which maintain collections of archaeological, historical, or paleontological significance which reveal the names and addresses of donors of such articles of archaeological, historical, or paleontological significance unless the donor approves disclosure, except as the records or portions thereof may be needed to carry out

the purposes of the Unmarked Human Burial Sites and Skeletal Remains Protection Act or the federal Native American Graves Protection and Repatriation Act;

(15) Job application materials submitted by applicants, other than finalists, who have applied for employment by any public body as defined in section 84-1409. For purposes of this subdivision, (a) job application materials means employment applications, resumes, reference letters, and school transcripts and (b) finalist means any applicant (i) who reaches the final pool of applicants, numbering four or more, from which the successful applicant is to be selected, (ii) who is an original applicant when the final pool of applicants numbers less than four, or (iii) who is an original applicant and there are four or fewer original applicants;

(16) Records obtained by the Public Employees Retirement Board pursuant to section 84-1512;

(17) Social security numbers; credit card, charge card, or debit card numbers and expiration dates; and financial account numbers supplied to state and local governments by citizens; and

(18) Information exchanged between a jurisdictional utility and city pursuant to section 66-1867.

Section 84-712.06

Public record; portion provided; when.

Any reasonably segregable public portion of a record shall be provided to the public as a public record upon request after deletion of the portions which may be withheld.

Section 84-712.07

Public records; public access; equitable relief; attorney's fees; costs.

The provisions of sections 84-712, 84-712.01, 84-712.03 to 84-712.09, and 84-1413 pertaining to the rights of citizens to access to public records may be enforced by equitable relief, whether or not any other remedy is also available. In any case in which the complainant seeking access has substantially prevailed, the court may assess against the public body which had denied access to their records, reasonable attorney fees and other litigation costs reasonably incurred by the complainant.

Section 84-712.08

Records; federal government; exception.

If it is determined by any federal department or agency or other federal source of funds, services, or essential information, that any provision of sections 84-712, 84-712.01, 84-712.03 to 84-712.09, and 84-1413 would cause the denial of any funds, services, or essential information from the United States Government which would otherwise definitely be available to an agency of this state, such provision shall be suspended as to such agency, but only to the extent necessary to prevent denial of such funds, services, or essential information.

Section 84-712.09***Violation; penalty.***

Any official who shall violate the provisions of sections 84-712, 84-712.01, and 84-712.03 to 84-712.08 shall be subject to removal or impeachment and in addition shall be deemed guilty of a Class III misdemeanor.

TAB 8 - PUBLIC MEETINGS

- 84-1408 Declaration of intent; meetings open to public.**
- 84-1409 Terms, defined.**
- 84-1410 Closed session; when; purpose; reasons listed; procedure; right to challenge; prohibited acts; chance meetings, conventions, or workshops.**
- 84-1411 Meetings of public body; notice; contents; when available; right to modify; duties concerning notice; videoconferencing or telephone conferencing authorized; emergency meeting without notice; appearance before public body.**
- 84-1412 Meetings of public body; rights of public; public body; powers and duties.**
- 84-1413 Meetings; minutes; roll call vote; secret ballot; when.**
- 84-1414 Unlawful action by public body; declared void or voidable by district court; when; duty to enforce open meeting laws; citizen's suit; procedure; violations; penalties.**

PUBLIC MEETINGS

Section 84-1408

Declaration of intent; meetings open to public.

It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.

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.

Section 84-1409

Terms, defined.

For purposes of the Open Meetings Act, unless the context otherwise requires:

(1) (a) Public body means (i) governing bodies of all political subdivisions of the State of Nebraska, (ii) governing bodies of all agencies, created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (iv) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (v) advisory committees of the bodies referred to in subdivisions (i), (ii), and (iii) of this subdivision, and (vi) instrumentalities exercising essentially public functions; and

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, except that all meetings of any subcommittee established under section 81-15,175 are subject to the Open Meetings Act, and (ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders;

(2) Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Videoconferencing means conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations.

Section 84-1410

Closed session; when; purpose; reasons listed; procedure; right to challenge; prohibited acts; chance meetings, conventions, or workshops.

(1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct;

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting;

(e) For the Community Trust created under section 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster; or

(f) For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms length.

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

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

body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

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

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.

(5) The act does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

Section 84-1411

Meetings of public body; notice; contents; when available; right to modify; duties concerning notice; videoconferencing or telephone conferencing authorized; emergency meeting without notice; appearance before public body.

(1) Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by each public body and recorded in its minutes. Such notice shall be transmitted to all members of the public body 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 principal office of the public body 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. Except for items of an emergency nature, the agenda shall not be altered later than (a) twenty-four hours before the scheduled commencement of the meeting or (b) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2) A meeting of a state agency, state board, state commission, state council, or state committee, of an advisory committee of any such state entity, of an organization created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a public power district having a chartered territory of

more than one county in this state, of the governing body of a public power and irrigation district having a chartered territory of more than one county in this state, of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, or of a community college board of governors may be held by means of videoconferencing or, in the case of the Judicial Resources Commission in those cases specified in section 24-1204, by telephone conference, if:

(a) Reasonable advance publicized notice is given;

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

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

(d) At least one member of the state entity, advisory committee, board, council, or governing body is present at each site of the videoconference or telephone conference; and

(e) No more than one-half of the state entity's, advisory committee's, board's, council's, or governing body's meetings in a calendar year are held by videoconference or telephone conference.

Videoconferencing, telephone conferencing, or conferencing by other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(3) A meeting of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of an entity formed under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, of a community college board of governors, of the governing body of a public power district, or of the governing body of a public power and irrigation district may be held by telephone conference call if:

(a) The territory represented by the educational service unit, member educational service units, community college board of governors, public power district, public power and irrigation district, or member public agencies of the entity or pool covers more than one county;

(b) Reasonable advance publicized notice is given which identifies each telephone conference location at which an educational service unit board member, a council member, a member of a community college board of governors, a member of the governing body of a public

power district, a member of the governing body of a public power and irrigation district, or a member of the entity's or pool's governing body will be present;

(c) All telephone conference meeting sites identified in the notice are located within public buildings used by members of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, or entity or pool or at a place which will accommodate the anticipated audience;

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

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

(f) At least one member of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, or governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice;

(g) The telephone conference call lasts no more than two hours; and

(h) No more than one-half of the board's, council's, governing body's, entity's, or pool's meetings in a calendar year are held by telephone conference call, except that a governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by telephone conference call if the governing body's quarterly meetings are not held by telephone conference call or videoconferencing.

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

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes

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

(6) A public body may allow a member of the public or any other witness other than a member of the public body to appear before the public body by means of video or telecommunications equipment.

Section 84-1412

Meetings of public body; rights of public; public body; powers and duties.

(1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, 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.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

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

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if:

(a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction;

(b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience;

(c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making a telephone conference call available at an instate location to members, the public, or the press, if requested twenty-four hours in advance;

(d) No more than twenty-five percent of the public body's meetings in a calendar year are held out-of-state;

(e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act;

(f) Reasonable arrangements are made to provide viewing at other instate locations for a videoconference meeting if requested fourteen days in advance and if economically and reasonably available in the area; and

(g) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

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

(8) Public bodies shall make available at the meeting or the instate location for a telephone conference call or videoconference, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

Section 84-1413

Meetings; minutes; roll call vote; secret ballot; when.

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

(2) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a municipality, a county, a learning community, a joint entity created pursuant to the Interlocal Cooperation Act, a joint public agency created pursuant to the Joint Public Agency Act, or an agency formed under the Municipal Cooperative Financing Act which utilizes an electronic voting device which allows the yeas and nays of each member of such city council, village board, county board, or governing body to be readily seen by the public.

(3) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

(4) 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.

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

Section 84-1414

Unlawful action by public body; declared void or voidable by district court; when; duty to enforce open meeting laws; citizen's suit; procedure; violations; penalties.

(1) Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in violation of the Open Meetings Act shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of the Open Meetings Act shall be voidable by the district court if the suit is commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the Open Meetings Act.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of the Open Meetings Act, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the act to discussions or decisions of the public body. It shall not be a defense that the citizen attended the meeting and failed to object at such time. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this section.

(4) Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

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TAB 9