

TITLE IX: GENERAL REGULATIONS

Chapters:

- 90. FIRE REGULATIONS**
- 91. HEALTH AND SAFETY**
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CHAPTER 90: FIRE REGULATIONS

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Fireworks

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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)

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§ 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.

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(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

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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.

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(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.

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(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

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- 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.

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(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***:

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- (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;

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(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

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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

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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

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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

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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

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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)

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§ 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

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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)

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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

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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

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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

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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

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§ 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

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an average protrusion beyond the tread surface of not more than $\frac{7}{64}$ 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

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CHAPTER 93: ANIMALS

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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:

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<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

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	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)

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§ 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

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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

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§ 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

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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

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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

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§ 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

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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

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§ 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

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§ 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.

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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

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§ 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

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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

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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.

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(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