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CHAPTER 6 – PUBLIC WAYS AND PROPERTY

Article 1 – Municipal Property

SECTION 6-101: DEFINITIONS

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

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

SECTION 6-102: GENERAL AUTHORITY

A. The Village Board shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the village and shall cause the same to be kept open, in repair, and free from nuisances. (Neb. Rev. Stat. §17-567)

B. The village shall have the power to prevent and remove all encroachments, including snow, ice, and other similar obstructions upon all sidewalks and other village property. (Neb. Rev. Stat. §§17-557, 17-558)

SECTION 6-103: SIDEWALK SPACE; TREES

A. Any tree planted within the sidewalk space shall be deemed to be unlawfully planted and growing and shall, at the discretion of the Village Board, be deemed to be a nuisance. When any such tree is declared to be a nuisance, the board 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 said tree, the Village Board shall order the same removed and assess the expense of such removal against the property adjacent to the sidewalk space wherein the tree is planted and growing.

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

(Neb. Rev. Stat. §§17-557.01, 18-1720)

SECTION 6-104: OBSTRUCTIONS

A. It shall be unlawful for any person, firm or corporation to obstruct or encum-

ber by fences, gates, buildings, structures, or otherwise any of the streets, alleys, or sidewalks.

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

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

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

(Neb. Rev. Stat. §§17-557, 17-557.01)

SECTION 6-105: OVERHANGING BRANCHES

A. The owner or occupant of any lot, piece or parcel of ground abutting or adjacent to any street or sidewalk over which the branches of trees extend shall at all times keep the branches or limbs thereof trimmed to a height of at least 14 feet above the surface of said street and at least 8 feet above the surface of said sidewalk.

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

C. In the event the property owner is a non-resident of the county in which the property lies, the village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certi-

fied mail, return receipt requested, to the last known address of the non-resident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-557.01)

SECTION 6-106: CONSTRUCTION MATERIALS; PERMIT REQUIRED

Persons engaged in the erection, construction, reconstruction, wrecking, or repairing of any building or the construction or repair of a sidewalk along any street may occupy the public street space with such building material and equipment so long as is necessary if such persons shall make application to and receive a permit in writing from the street commissioner to do so; provided, no permit for the occupancy of the sidewalk space and more than one-third of the roadway of the public space adjacent to the real estate on which said building is to be constructed, erected, reconstructed, wrecked, or repaired shall be granted; and provided further, a suitable passageway for pedestrians shall be maintained within the public space included in the permit which shall be protected and lighted in the manner required by the street commissioner.

SECTION 6-107: BARRICADES AND LIGHTS

Whenever any excavation on any public property, including without limitation parking sites, sidewalks, curbs, and streets, occurs within the zoning jurisdiction of the village, the party responsible for the excavation shall provide adequate barricades around the excavation and shall install sufficient warning lights and signs around the excavation to protect the public. (Neb. Rev. Stat. §17-505)

SECTION 6-108: EAVE AND GUTTER SPOUTS

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

SECTION 6-109: DAMAGE

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

SECTION 6-110: CUTTING CURB; DRIVEWAYS; PERMIT, DEPOSIT REQUIRED

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 without first having obtained written approval from the Village Board therefor. It shall also be unlawful for any person to construct a driveway where no curb cutting is required without having first obtained a permit following the procedures set out herein.

B. All driveway applications shall contain the following information:

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

C. Before any permit for curb cutting is issued by the Village Board, the applicant for such permit shall deposit with the village treasurer a sum set by resolution of the board for all paving, curb, or sidewalk to be cut. Such sum shall be set on a per-square-foot cost of construction basis. The deposit shall be retained by the village for the purpose of replacing the paving, curb, or sidewalk in the event the work is done by the village. In the event the village elects to require the applicant to replace the paving, curb, or sidewalk, the deposit shall be retained by the village until the work is completed to the satisfaction of the Utilities Department.

D. Upon approval by the Village Board, the applicant shall be required to build said driveway and complete said curb cut to the village's specifications, including size and type of materials. When the applicant is ready to close the opening made, he or she shall inform the Utilities Department, which shall supervise and inspect the materials used and work done in closing the opening.

(Neb. Rev. Stat. §17-567)

SECTION 6-111: HEAVY EQUIPMENT

A. It shall hereafter be unlawful for any person or persons to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing on any unpaved street without first having protected such structure with heavy plank sufficient in strength to warrant against the breakage or damage of the same. Hereafter, it shall be unlawful to drive, move, operate, or convey over or across any paved street a vehicle, machine, or implement with sharp discs or sharp wheels that bear upon said pavement; with wheels having cutting edges; or with wheels having lugs, protruding parts, or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent, or otherwise injure or damage any pavement, gutter, or curb.

B. Where heavy vehicles, structures, and machines move along paved or unpaved streets, the Village Board is hereby authorized and empowered to choose the route over which such moving will be permitted and allowed.

C. It shall be permissible (1) for school buses and emergency vehicles to use

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

(Neb. Rev. Stat. §60-6,250)

SECTION 6-112: REAL PROPERTY; ACQUISITION; AUTHORIZATION

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

SECTION 6-113: REAL PROPERTY; ACQUISITION; APPRAISAL

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

SECTION 6-114: REAL PROPERTY; ACQUISITION; CONSTRUCTION; ELECTIONS, WHEN REQUIRED

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

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

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

1. Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the village and no election shall be required to approve the purchase or construction unless within 30 days after the publication of the notice a remonstrance against the purchase or construction is signed by electors of the village equal in number to 15% of the registered voters of the village voting at the last regular village election held therein and is filed with the Village Board. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be considered timely if filed or postmarked on or before the next business day. If a remonstrance with the necessary number of qualified signatures is timely filed, the question shall be submitted to the vot-

ers of the village at a general village election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then nor within one year following the election be purchased or constructed; or

2. The Village Board may proceed without providing the notice and right of remonstrance required in subdivision (1) of this subsection if the property can be purchased below the fair market value as determined by an appraisal, there is a willing seller, and the purchase price is less than \$25,000.00. The purchase shall be approved by the board after notice and public hearing as provided in Neb. Rev. Stat. §16-1755.

(Neb. Rev. Stat. §§17-953, 17-953.01)

SECTION 6-115: REAL PROPERTY; SALE AND CONVEYANCE

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

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

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

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

D. If within 30 days after the third publication of the notice a remonstrance against such sale is signed by registered voters of the village equal in number to 30% of the registered voters of the village voting at the last regular municipal election held therein and is filed with the Village Board, such property shall not then nor within one year thereafter be sold. The procedure for determining the validity of the said remonstrance shall be as provided in Neb. Rev. Stat. §17-503(4).

E. Real estate now owned or hereafter owned by the village may be conveyed without consideration to the State of Nebraska for state armory sites or, if acquired for state armory sites, such property shall be conveyed strictly in accordance with the conditions of Neb. Rev. Stat. §§16-1001 to 16-1006.

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

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

(Neb. Rev. Stat. §§17-503, 17-503.01)

SECTION 6-116: PERSONAL PROPERTY; SALE AND CONVEYANCE

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

SECTION 6-117: SPECIAL IMPROVEMENT DISTRICT; ASSESSMENT AND CREATION PROCEDURE

The Village Board may by ordinance create a special improvement district for the purpose of replacing, reconstructing, or repairing an existing water line, sewer line, or any other such improvement. Except as provided in Neb. Rev. Stat. §§19-2428 to 19-2431, the board shall have power to assess, to the extent of such benefits, the costs of such improvements upon the properties found especially benefited thereby, whether or not such properties were previously assessed for the same general purpose. In creating such special improvement district, the board shall follow procedures applicable to the creation and assessment of the same type of improvement district as otherwise provided by law. (Neb. Rev. Stat. §18-1751) (Ord. No. 88-7, 3/1/88)

SECTION 6-118: IMPROVEMENT DISTRICT; LAND ADJACENT

Supplemental to any existing law on the subject, a village may include land adjacent to such village when creating an improvement as a sewer, water, water extension, or sanitary sewer extension district. The Village Board shall have power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefited thereby, except as provided in Section 6-119. (Neb. Rev. Stat. §19-2427) (Ord. No. 88-8, 3/1/88)

SECTION 6-119: SPECIAL ASSESSMENTS; LAND ADJACENT; DEFERRAL

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

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

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

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

D. Whenever property which has received a deferral pursuant to this section becomes disqualified for such deferral, the owner of record title of such property shall pay to the village an amount equal to the total amount of special assessments which would have been assessed against such property, to the extent of special benefits, had such deferral not been granted. Interest upon the special assessments not paid each year at the rate of 6% from the dates at which such assessments would have been payable if no deferral had been granted.

E. In cases where the deferral provided by this section is terminated as a result of a sale or transfer described in subdivision (C)(2) or (3), the lien for assessments and interest shall attach as of the day preceding such sale or transfer.

(Neb. Rev. Stat. §§19-2428 through 19-2431) (Ord. No. 83-11, 12/6/83) (Am. Ord. No. 88-9, 3/1/88)

Article 2 – Streets

SECTION 6-201: NAMES AND NUMBERS

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

SECTION 6-202: WIDENING OR OPENING

The Village Board shall have the power to open or widen any street, alley, or lane within the limits of the village and to create, open, and improve any new street, alley, or lane; provided, all damages sustained shall be ascertained in such manner as shall be provided by ordinance. (Neb. Rev. Stat. §§17-558, 17-559, 76-704 through 76-724)

SECTION 6-203: CROSSINGS

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

SECTION 6-204: EXCAVATION

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

SECTION 6-205: 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 the written consent of the Utilities Department. It shall be unlawful for any person to break, remove or destroy any stone or stake that marks any street, block, lot, or public ground, except when authorized by proper authority. (Neb. Rev. Stat. §17-567)

SECTION 6-206: MIXING CONCRETE

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

SECTION 6-207: HARMFUL LIQUIDS

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

SECTION 6-208: UTILITY POLES, WIRES, MAINS

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

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

SECTION 6-209: DRIVEWAY APPROACHES

The utilities superintendent may require the owner of property served by a driveway approach constructed or maintained upon the street right of way to repair or replace any such driveway approach which is cracked, broken, or otherwise deteriorated to the extent that it is causing or is likely to cause damage to or interfere with any street structure, including pavement or sidewalks. The village clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of such owner or the agent of such owner, requiring the repair or replacement of such driveway approach. If within 30 days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the street commissioner may cause such work to be done and assess the cost upon the property served by such approach. (Neb. Rev. Stat. §16-1748) (Ord. No. 84-9, 11/6/84)

SECTION 6-210: POWER TO IMPROVE

The Village Board may grade, partially or to an established grade, change grade, curb, recurb, gutter, regutter, pave, gravel, regravell, macadamize, remacadamize, widen or narrow streets or roadways, resurface or relay existing pavement, or otherwise improve any streets, alleys, public grounds, or public ways, entirely or partially, and streets which divide the village corporate area and the area adjoining the village; construct or reconstruct pedestrian walks, plazas, malls, landscaping, outdoor sprinkler systems, fountains, decorative water ponds, lighting systems, and permanent facilities; and construct sidewalks and improve the sidewalk space. These projects may be funded at public cost or by the levy of special assessments on the property especially benefited in proportion to such benefits, except as provided in Neb. Rev. Stat. §§19-2428 to 19-2431. (Neb. Rev. Stat. §17-509)

SECTION 6-211: IMPROVEMENT DISTRICTS; SPECIAL ASSESSMENTS

The Village Board may by ordinance create paving, repaving, grading, curbing, recurbing, resurfacing, graveling, or improvement districts, to be consecutively numbered, which may include two or more connecting or intersecting streets, alleys, or public ways and may include two or more of the improvements in one proceeding. All of the improvements which are to be funded by a levy of special assessment on the property especially benefited shall be ordered as provided in Sections 6-213 to 6-215, unless the board improves a street which divides the village corporate area and the area adjoining the village as provided in Section 6-212. (Neb. Rev. Stat. §17-509)

SECTION 6-212: IMPROVEMENT OF STREETS ON CORPORATE LIMITS

Whenever the Village Board improves any street which divides the village corporate area and the area adjoining the village, the board shall determine the sufficiency of petition as set forth in Section 6-213 by the owners of the record title representing more than 60% of the front footage of the property directly abutting upon the street to be improved, rather than 60% of the resident owners. Whenever the board shall deem it necessary to make any of the improvements allowed by statute on a street which divides the village corporate area and the area adjoining the village, the Village Board shall by ordinance create the improvement district pursuant to Section 6-214 and the right of remonstrance shall be limited to owners of record title, rather than resident owners. (Neb. Rev. Stat. §17-509)

SECTION 6-213: PETITION FOR IMPROVEMENTS

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

or adjacent to such street, streets, alley, or alleys especially benefited thereby in such district in proportion to such benefits, except as provided in Neb. Rev. Stat. §§19-2428 to 19-2431, to pay the cost of such improvement. The board shall have the discretion to deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the board should deny a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties. (Neb. Rev. Stat. §17-510) (Am. Ord. No. 83-10, 12/6/83)

SECTION 6-214: IMPROVEMENT DISTRICTS; OBJECTIONS

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

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

(Neb. Rev. Stat. §17-511)

SECTION 6-215: IMPROVEMENT OF MAIN THOROUGHFARES

The Village Board shall have power by a three-fourths vote to enact an ordinance creating a paving, graveling, or other improvement district and to order such work to be done without petition upon any federal or state highways in the village or upon a street or route designated by the board as a main thoroughfare, connecting to either a federal or state highway or a county road. The board shall contract therefor and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street, alley, or alleys especially benefited thereby in such district in proportion to such benefits to pay the cost of such improvement. (Neb. Rev. Stat. §17-512) (Ord. No. 80-8, 10/7/80)

SECTION 6-216: CONSTRUCTION ASSESSMENT

A. To defray the costs and expenses of street improvements as may be authorized by law, the Village Board shall have power and authority to levy and collect special taxes and assessments upon the lots and pieces of ground adjacent to, abutting upon, or especially benefiting from the street, avenue, alley, or sidewalk in whole or in part opened, widened, curbed, curbed and guttered, graded, paved, repaired, graveled, macadamized, parked, extended, constructed, or otherwise improved or repaired. The Village Board sitting as the Board of Equalization shall review all such improvements in accordance with the procedure provided by law.

B. All special assessments shall be made by the Village Board at a regular or special meeting by resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements and the amount charged against same. The vote shall be recorded in the minutes. Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in a legal newspaper published or of general circulation in the village at least four weeks in advance of the meeting. In lieu of such aforementioned notice, personal service may be had upon the persons owning or occupying the property to be assessed.

C. Every such assessment shall be known as a "special assessment for improvements" and with the cost of notice shall be levied and collected as a special tax in addition to the taxes for general revenue purposes, subject to the same penalties and collected in like manner as other village taxes. Such assessment shall be certified to the county clerk by the village clerk forthwith after the date of levy for collection by the county treasurer unless otherwise specified. After it shall have become delinquent, said assessment shall draw interest at the legal interest rate per annum.

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

(Neb. Rev. Stat. §§17-511, 17-524, 19-2428 through 19-2431, 45-104.01)

SECTION 6-217: VACATING PUBLIC WAYS; PROCEDURE

Whenever the Village Board decides that it would be in the best interests of the village to vacate a street, avenue, alley, lane, or similar public way, the board shall comply with the following procedure:

A. *Notice.* Notice shall be given to all abutting property owners either by first class mail to their last known addresses or, if there are no known addresses, then by publishing the notice in a newspaper that is of general circulation in the village. The content of the notice shall advise the abutting property owners that the Village Board

will consider vacating such street, avenue, alley, lane, or similar public way at its next regular meeting or, if a special meeting is scheduled for such discussion, then the date, time, and place of such meeting.

B. *Consent/Waiver.* The Village Board may have all the abutting property owners sign a form stating that they consent to the action being taken by the board and waive their right of access. The signing of such form shall have no effect on claims for special damages by the abutting property owners but shall create the presumption that the board's action was proper. If the abutting property owners do not sign the consent/waiver form, the Village Board may still proceed with vacating the street, avenue, alley, lane, or similar public way under the authority granted by Neb. Rev. Stat. §§17-558 and 17-559.

C. *Ordinance.* The Village Board shall pass an ordinance that includes essentially the following provisions:

1. A declaration that the action is expedient for the public good or in the best interests of the village.
2. A statement that the village will have an easement for maintaining all utilities.
3. A method or procedure for ascertaining special damages to abutting property owners.

D. The clerk shall file a copy of the ordinance with the county register of deeds to ensure that abutting property owners can gain title to their share of the vacated street, avenue, alley, lane, or similar public way and so that such land will be drawn to the attention of the county assessor.

(Neb. Rev. Stat. §§17-558, 17-559)

SECTION 6-218: VACATING PUBLIC WAYS; DEFINITIONS; ASCERTAINING DAMAGES

A. In reference to vacating of public ways, "special damages" shall mean only those losses, damages, or injuries which a property owner suffers that are peculiar, special, or unique to his or her property and which result from the vacating of such street, avenue, alley, lane, or similar public way by the Village Board.

B. "Special damages" shall not mean those losses, damages, or injuries suffered by a property owner that are in common with the rest of the village or public at large, even though those losses, damages, or injuries suffered by the property owner are greater in degree than the rest of the village or public at large.

C. The chairman, with approval of the Village Board, shall appoint three, five or seven disinterested residents of the village to a special commission to ascertain the amount of special damages that the abutting property owners are entitled to receive and which resulted from the vacating of such street, avenue, alley, lane, or similar public way. Only special damages, as herein defined, shall be awarded to the

abutting property owners.

D. In determining the amount of compensation to award the abutting property owners as special damages, the aforementioned commission shall use the following rule:

The abutting property owner is entitled to recover as compensation the difference between the value of such property immediately before and immediately after the vacating of such street, avenue, alley, lane, or similar public way. However, if no difference in value exists, the abutting property owner is entitled to no compensation.

(Neb. Rev. Stat. §§17-558, 17-559)

SECTION 6-219: VACATING PUBLIC WAYS; TITLE

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

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

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

(Neb. Rev. Stat. §17-558)

Article 3 – Sidewalks

SECTION 6-301: DUTY TO KEEP CLEAN

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on any sidewalk or to permit any snow, sleet, ice, mud, or other substance to remain upon said sidewalk. All sidewalks within the business district shall be cleaned within five hours after the cessation of a storm unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 10:00 a.m. the following day. Sidewalks within the residential areas of the village shall be cleaned within 24 hours after the cessation of the storm. (Neb. Rev. Stat. §17-557.01)

SECTION 6-302: CONSTRUCTION OR REPAIR; ORDERED BY VILLAGE

A. Every owner of a lot, lots, or piece of land within the corporate limits shall at all times keep and maintain the sidewalk along and contiguous to said lot, lots, or pieces of land, as the case may be, in good and proper repair and in a condition reasonably safe for travel for all travelers thereon.

B. The Village Board may construct and repair sidewalks or cause the construction and repair of sidewalks in such manner as it deems necessary and assess the expense thereof on the property in front of which such construction or repairs are made, after having given notice (1) by publication in one issue of a legal newspaper of general circulation in such village and (2) by either causing a written notice (a) to be served upon the occupant in possession of the property involved or (b) to be posted upon such premises ten days prior to the commencement of such construction or repair. The notice required in this section shall be prepared by the village attorney in accordance with the provisions of this section. Such service shall include a form of return evidencing personal service or posting as herein required.

C. Said notice shall notify the owner of the premises of the passage of the resolution ordering him or her to construct or cause to be constructed a sidewalk within 30 days after the date of publication and further, that if he or she fails to construct the sidewalk or cause the same to be done within the time allowed and in the manner required, the village will cause the sidewalk to be constructed and the cost thereof shall be levied and assessed as a special tax against the premises; provided, the notice shall contain the official estimate of the cost of said construction and no special assessment in excess of this estimate shall be assessed against the property.

D. Notice to the owners of property upon which such sidewalks in disrepair are located shall require within 48 hours from issuance of notice said owners to make arrangements to have the sidewalk repaired. Said repairs shall be completed within 21 days after issuance of said notice. No special assessment shall be levied against the property unless said owner shall neglect or refuse to repair within the time pre-

scribed.

E. In the event that the owner of any lot, lots, or lands abutting on any street 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, he, she, or they shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk and the Village Board shall have power to cause any such sidewalks to be constructed or repaired and assess the costs thereof against such property.

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

(Neb. Rev. Stat. §17-522)

SECTION 6-303: CONSTRUCTION OR REPAIR; BIDS

A. Whenever the village shall construct, widen, replace, or reconstruct any sidewalk, notice prepared by the village attorney specifying the work to be done and calling for bids for doing such work and supplying the necessary materials and labor shall be published at least once in a legal newspaper of general circulation in the village; provided, bids so invited shall be filed in the office of the village clerk within 10 days after the date of publication. Bids shall be opened at the next regular or special meeting of the Village Board, which shall then award the work to the lowest responsible bidder.

B. Upon approval of the work, the board may require the contractor to accept payment in certificates issued to him by the village clerk entitling him to all assessments or special taxes against such real estate whenever such assessments or special taxes shall be collected, together with the interest or penalty collected thereon. Each certificate shall give the legal description of the lot, lots or parcel of ground against which the assessments or special taxes are assessed. Such certificate or certificates may be assigned and transferred, entitling the holder to the same rights as if held by the original contractor. The county treasurer shall pay over to such contractor or other holder of the certificate or certificates all assessments or special taxes against such real estate, together with the interest and penalty thereon, at any time upon presentation of such certificate or certificates after said assessments or special taxes against such real estate, together with interest or penalty thereon, shall have been collected.

SECTION 6-304: CONSTRUCTION BY PETITION; IMPROVEMENT DISTRICT; SPECIAL ASSESSMENTS; ABUTTING OWNER

A. If the owners of the record title representing more than 60% of the front

footage of the properties directly abutting upon the street proposed to be improved with a sidewalk shall sign a petition and present it to the village clerk for filing, petitioning therefor, the Village Board shall by ordinance create a paving or other improvement district, cause such work to be done or such improvement to be made, contract therefor, and levy special assessments on the lots and parcels of land abutting on or adjacent to such streets or alleys specially benefited thereby in such district in proportion to such benefits, except as provided in Neb. Rev. Stat. §§19-2428 to 19-2431, to pay the cost of such improvement. The Village Board may deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the board denies a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties.

B. Upon the petition of any property owner who is an abutting owner in fee simple of property subject to assessment for sidewalk improvements, the Village Board may order permanent sidewalks built in accordance with this article upon the owner making, executing, and delivering to the village an agreement to the effect that the petitioning freeholder will pay the engineering service fee and all other incidental construction costs which until paid shall be a perpetual lien upon the real estate along which the owner desires such sidewalk to be constructed and that the petitioner gives and grants to the village the right to assess and levy the costs of such construction against the owner's real estate abutting the sidewalk improvement and promises to pay such costs with interest. The total cost of such improvement shall be levied, allocated, financed, and specially assessed as provided by law.

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

(Neb. Rev. Stat. §17-510)

SECTION 6-305: CONSTRUCTION OR REPAIR BY OWNER; APPLICATION, PERMIT

Said owner shall request approval in the office of the village clerk. At the time of such request, the person requesting approval shall give a description of the lot or piece of land along which the sidewalk is to be constructed. If it is desired to construct the sidewalk at any other than the regularly prescribed location, grade, or elevation or using other than the regularly prescribed specifications, the Village Board shall determine whether the request should be approved or denied. 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 village official in charge of sidewalks.

Article 4 – Penal Provision

SECTION 6-401: VIOLATION; PENALTY

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