

## **CHAPTER 6 – PUBLIC WAYS AND PROPERTY**

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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: OBSTRUCTIONS

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

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

C. The public ways and property shall be considered to be obstructed when the owner or occupant of the adjacent property shall permit or suffer to remain on any premises owned or controlled by him or her any hedge, shrubbery, bush, or similar growth within 18 inches adjacent to the lot line whether or not there is a sidewalk abutting or adjoining such premises.

D. 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.

E. 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 6-104: OVERHANGING BRANCHES**

A. The owner or occupant of any lot, piece or parcel of ground abutting or adjacent to any street or sidewalk over which the branches of trees extend shall at all times keep the branches or limbs thereof trimmed to a height of at least 7.5 feet above the surface of said walk and at least 12 feet above the surface of said street.

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

C. In the event the property owner is a 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)

### **SECTION 6-105: 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 6-106: 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 6-107: 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 6-108: 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 6-109: CUTTING CURB; DRIVEWAY; PERMIT, DEPOSIT AND BOND**

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 a written permit 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;
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:

1. The applicant for such permit shall deposit with the village treasurer a sum set by resolution of the Village 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 street commissioner.
2. The applicant shall inform the village clerk of the place where such cutting is to be done and it shall be the street commissioner's duty to inspect the place of entry into the paving, sidewalk, or curb before the same is cut.

D. Upon approval of said permit 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 street commissioner, who shall supervise and inspect the materials used and work done in closing the opening.

E. It shall be discretionary with the Village Board to order the street commissioner, under the supervision and inspection of the village engineer or the committee of the board on streets and alleys, to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained such permit.  
(Neb. Rev. Stat. §17-567)

#### **SECTION 6-110: REMOVING DIRT**

It is hereby declared unlawful for any person to remove, disturb, or take away from any street, alley, or public grounds any dirt, earth, stones, or other materials forming a part of such street, alley, or public grounds without first having obtained written permission to do so from the Village Board. (Neb. Rev. Stat. §17-557)

#### **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 signa-

tures shall be considered timely if filed or postmarked on or before the next business day. If a remonstrance with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the village at a general village election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then nor within one year following the election be purchased or constructed; or

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

(Neb. Rev. Stat. §§17-953, 17-953.01)

### **SECTION 6-115: 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 any 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. §§18-1001 to 18-1006.

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)



## 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: 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 6-203: EXCAVATION

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

### SECTION 6-204: DRIVING STAKES

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

### SECTION 6-205: 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 6-206: 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 6-207: 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 6-208: DRIVEWAY APPROACHES**

The village may require the owner of property served by a driveway approach constructed or maintained upon the street right of way to repair or replace any such driveway approach which is cracked, broken, or otherwise deteriorated to the extent that it is causing or is likely to cause damage to or interfere with any street structure, including pavement or sidewalks. The village clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of such owner or the agent of such owner, requiring the repair or replacement of such driveway approach. If within 30 days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the street commissioner may cause such work to be done and assess the cost upon the property served by such approach. (Neb. Rev. Stat. §16-1748)

**SECTION 6-209: POWER TO IMPROVE; IMPROVEMENT DISTRICTS; SPECIAL ASSESSMENTS**

A. 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.

B. 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 6-211 to 6-213, unless the board improves a street which divides the village corporate area and the area adjoining the village as provided in Section 6-210.

(Neb. Rev. Stat. §17-509)

#### **SECTION 6-210: 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 6-211 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 6-212 and the right of remonstrance shall be limited to owners of record title, rather than resident owners. (Neb. Rev. Stat. §17-509)

#### **SECTION 6-211: PETITION FOR IMPROVEMENTS**

Whenever a petition signed by the owners of record title representing more than 60% of the front footage of the property directly abutting upon the street, streets, alley, alleys, public way, or the public grounds proposed to be improved shall be presented and filed with the village clerk, petitioning therefor, the Village Board shall by ordinance create a paving, graveling, or other improvement district or districts and shall cause such work to be done or such improvement to be made. The board shall contract therefor and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street, streets, alley, or alleys especially benefited thereby in such district in proportion to such benefits, except as provided in Neb. Rev. Stat. §§19-2428 to 19-2431, to pay the cost of such improvement. The board shall have the discretion to deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the board should deny a requested improvement district formation, it shall state the

grounds for such denial in a written letter to interested parties. (Neb. Rev. Stat. §17-510)

### **SECTION 6-212: 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 6-213: IMPROVEMENT OF MAIN THOROUGHFARES**

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

### **SECTION 6-214: CONSTRUCTION ASSESSMENT AND COLLECTION**

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

A. Such assessments shall be made by the Village Board at a special meeting, by a resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements, and the amount charged against the same, which, with the vote thereon by "yeas" and "nays," shall be spread at length upon the minutes. Notice of the time of holding such meeting and the purpose for which it is to

be held shall be published in a newspaper published or of general circulation in said village at least four weeks before the same shall be held or, in lieu thereof, personal service may be had upon persons owning or occupying property to be assessed.

B. All such assessments shall be known as “special assessments for improvements” and shall be levied and collected as a separate tax, in addition to the taxes for general revenue purposes, and shall be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other village taxes.

C. In the event the property owner is a 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. §17-524)

### **SECTION 6-215: POWER TO IMPROVE, VACATE, ETC.; DAMAGES**

The village shall have power to open, widen, or otherwise improve or vacate any street, avenue, alley, or lane within the limits of the village and to create, open, and improve any new street, avenue, alley, or lane. All damages sustained by the citizens of the village or by the owners of the property therein shall be ascertained in such manner as shall be provided by ordinance. (Neb. Rev. Stat. §17-558)

### **SECTION 6-216: VACATING PUBLIC WAYS**

A. *Title; All of Street Vacated.* Whenever any street, avenue, alley, or lane is vacated, the same shall revert to the owners of the abutting real estate, one-half on each side thereof, and become a part of such property unless the village reserves title in the ordinance vacating such street or alley. If title is retained by the village, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the village.

B. *Title; Portion of Street Vacated.* When a portion of a street, avenue, alley, or lane is vacated only on one side of the center thereof, the title to such land shall vest in the owner of the abutting property and become a part of such property unless the village reserves title in the ordinance vacating a portion of such street or alley. If title is retained by the village, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the village.

C. *Filing of Certified Copy.* When the village vacates all or any portion of a street, avenue, alley, or lane, the village shall, within 30 days after the effective date of the vacation, file a certified copy of the vacating ordinance with the county register of deeds to be indexed against all affected lots.

D. *Conditions.* The title to property vacated pursuant to this section shall be subject to the following:

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

(Neb. Rev. Stat. §17-558)

## **SECTION 6-217: EMINENT DOMAIN**

The village shall have the power:

A. To create, open, widen, or extend any street, avenue, alley, off-street parking area, or other public way or annul, vacate, or discontinue the same; to take private property for public use for the purpose of erecting or establishing market houses; market places; parks; swimming pools; airports; gas systems, including distribution facilities; water systems; power plants, including electrical distribution facilities; sewer systems; or for any other needed public purpose; and

B. To exercise the power of eminent domain within or without the village limits for the purpose of establishing and operating power plants, including electrical distribution facilities, to supply such village with public utility service and for sewerage purposes, water supply systems, or airports.

C. The procedure to condemn property shall be exercised in the manner set forth in Neb. Rev. Stat. §§76-704 to 76-724, except as to property specifically excluded by Neb. Rev. Stat. §76-703 and as to which Neb. Rev. Stat. §§19-701 to 19-707 or the Municipal Natural Gas System Condemnation Act is applicable. For purposes of this section, electrical distribution facilities shall be located within the retail service area of such village as approved by and on file with the Nebraska Power Review Board, pursuant to Neb. Rev. Stat. Chapter 70, Article 10.

(Neb. Rev. Stat. §17-559)



## Article 3 – Sidewalks

### SECTION 6-301: DUTY TO KEEP CLEAN

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on any sidewalk or to permit any snow, sleet, ice, mud, or other substance to remain upon said sidewalk. All sidewalks shall be cleaned as soon as possible after the cessation of a storm. If snow, sleet, mud, ice, or other substance shall remain on any sidewalk for more than five hours, it shall be the duty of the street commissioner to remove the same and the expense of such removal shall be charged to and collected from the occupant or owner of such property. (Neb. Rev. Stat. §§17-557, 17-557.01)

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

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

B. The Village Board may by resolution order the construction or repair of a sidewalk on any lot or piece of ground within the village and may assess the expense thereof on the property in front of which such construction or repairs are made, after having given notice of its intention to do so:

1. By publication in one issue of a legal newspaper of general circulation in the village; and
2. By causing a written notice either to be served upon the occupant in possession of the property involved or to be posted upon such premises ten days prior to the commencement of such repair. Such service shall include a form of return evidencing personal service or posting as herein required.

C. All sidewalks shall be constructed or repaired in conformity with such plans, specifications, and materials as may be approved by the Village Board.

D. If any owner shall fail to construct or repair any sidewalk in front of his or her property within 30 days in the manner as directed herein after having received due notice to do so, the board may cause the sidewalk to be constructed or repaired and may assess the cost thereof against the property. The owner shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk.

E. In the event the property owner is a 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 BY OWNER; APPLICATION, PERMIT**

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. Said owner shall make application in writing for a permit and file such application in the office of the village clerk. The application shall give a description of the lot or piece of land along which the sidewalk is to be constructed. The street commissioner shall issue the desired permit unless good cause shall appear why said permit should be denied.

B. All sidewalks shall be built and constructed on the established grade or elevation and if there is no established grade, then on the grade or elevation indicated by the street commissioner. If it is desired to construct the sidewalk at any other than the regularly prescribed location, grade, elevation, and thickness, the street commissioner shall submit the application to the Village Board, which shall determine whether the permit should be granted or denied.

### **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: DANGEROUS STAIRWAY**

It shall be unlawful for any person to construct or maintain any stairway, open cellarway, open basement way, or open entrance thereto in or adjacent to any sidewalk, pavement, or street. Any such entrance is hereby declared to be a public nuisance; provided, all existing stairways, open cellarways, open basement ways, or open entrances thereto in said sidewalks, pavements, or streets may be permitted to remain from and after the passage, approval, and publication of this code if said person owning or using said opening in the sidewalk or street shall satisfy the street commissioner that the same is properly protected by a balustrade or coping of durable material and shall furnish the village with a bond in such amount as the Village Board may set for the benefit of any person who might suffer an injury or damage by reason of the use of said stairway, cellarway, or open basement way. (Neb. Rev. Stat. §17-555)



## **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.