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CHAPTER 5 – PUBLIC WAYS AND PROPERTY

Article 1 – Municipal Property Regulations

SECTION 5-101: MAINTENANCE AND CONTROL

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

SECTION 5-102: OBSTRUCTIONS

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

B. It shall be unlawful for any person or other legal entity to cause any obstruction of any public street, sidewalk or other public way unless such obstruction has been sanctioned by the Village Board.

SECTION 5-103: PERMITTED OBSTRUCTIONS

Persons engaged in the erection, construction, reconstruction, wrecking or repairing of any building or the construction or repair of a sidewalk along any street may occupy the public street space with such building material and equipment as long as necessary if such person shall make written application to do so; provided, no permit shall be granted for the occupancy of the sidewalk space or more than one-third of the roadway of the public space adjacent to the real estate on which said building is to be constructed, erected, reconstructed, wrecked or repaired; 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 Village Board.

SECTION 5-104: SIGNS AND CANOPIES

No person, firm or corporation shall erect or maintain any sign, signboard, poster or rigid canopy over any street, sidewalk, alley or on other public property without having first obtained a permit therefor. Permits for signs, canopies, posters and signboards shall be issued by the village clerk, subject to the approval of the street commissioner upon the payment of a fee set by resolution of the Village Board. All signs

and canopies tending over any public sidewalk, street, alley or other public space must be securely fastened and constructed so that there will be no danger of the same being dislodged by ordinary winds falling from other causes. No sign or canopy shall be erected maintained which extends over any public sidewalk, street, alley or other public place in such a location as to obstruct the view of any traffic light, sign or signal. Upon the written order of the Village Board, any person owning or occupying the premises where such a sign, canopy, poster or signboard is located shall cause the same to be removed within the time limit specified on such notice.

SECTION 5-105: PROHIBITIONS; PERMITS

A. It shall be unlawful for any person, persons, firm or corporation to place obstructions or improvements of any kind in, on or under any of the streets, alleys, sidewalks and rights-of-way of the Village by fences, gates, irrigation systems, buildings, structures, posts, landscaping items or other such improvements, unless a written permit is issued by the Board of Trustees authorizing such improvements thereon.

B. It shall be unlawful for any person, persons, firm or corporation to make an excavation in any street, alley, sidewalk, or right-of-way of the Village for any purpose whatsoever, unless a written permit is issued by the Board of Trustees of the Village authorizing such excavation.

C. It shall be unlawful for any person, persons, firm or corporation to drive or place any peg, stake, pipe or object of any kind in, on or under the pavement or ground of any street, alley, sidewalk or right-of-way of the Village for any purpose whatsoever, unless a written permit is issued by the Board of Trustees authorizing such action.

D. It shall be the duty of the occupant or owner of each lot or parcel of ground in the Village to keep the streets, sidewalks and the rights-of-way of the Village adjacent thereto free from obstructions, nuisances and improvements of any kind, unless said occupant or owner has obtained written permission by the Board of Trustees therefor. It shall be the duty of the occupant or owner of each lot or parcel of ground to remove any obstruction, nuisance or unauthorized improvement of any kind upon written demand by the Village. If any such occupant or owner, after notice has been given, shall neglect or refuse to repair or remove or shall have failed to repair or remove any such obstruction, nuisance or unauthorized improvement within the time limit in the notice given in such case, then the Board of Trustees or other authorized representative of the Village shall proceed at once, without further notice to such occupant or owner, to have the streets, sidewalks or rights-of-way repaired or obstructions removed, as the case may be, and the expense of such work shall be the sole responsibility of the occupant or owner. The expense of such work may, at the option of the Village, be assessed to such lot or piece of land and collected as provided by law. This remedy may be in addition to any other remedy provided to the Village in such cases. In addition, the Village Board may collect the cost from the occupant or

owner and enforce the collection by civil action in any court of competent jurisdiction.
(Ord. No. 2-10-03, 2/10/03)

SECTION 5-106: CUTTING OF PAVEMENT

A. It is hereby determined to be unlawful for any person to cut into any paving, curb or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained a written permit from the village clerk therefor. See Article 4 herein regarding construction of driveways. Before any person shall obtain a permit, he/she shall inform the village clerk of the place where such cutting is to be done. Before any permit is issued by the village clerk, the applicant for such permit shall deposit with the village treasurer a sum set by resolution of the Village Board for all paving, curbs or sidewalks to be cut. Such sum shall be set on a per-square-foot cost of construction basis. The deposit shall be retained by the Village for the purpose of replacing the paving, curbs or sidewalks in the event the work is done by the Village. In the event the Village elects to require the applicant to replace the paving, curbs or sidewalks, the deposit shall be retained by the Village until the work is completed to the satisfaction of the street commissioner or of the committee of the Village Board on streets and alleys. In addition to making the deposit set forth above, the applicant shall, before any permit is issued, execute a bond to the Village with a good and sufficient surety or sureties to be approved by the Village Board in a sum set by resolution to guarantee faithful performance of the work.

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

SECTION 5-107: EAVE AND GUTTER SPOUTS

It is hereby declared unlawful for any person to erect or maintain any dwelling house or business building within the limits of the Village where the said dwelling or building abuts on any sidewalk or street without providing proper guttering and eave spouts to receive the waste waters that may collect on the said sidewalks and streets. All eave spouts erected on any dwelling house 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 5-108: HEAVY EQUIPMENT

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 curb, gutter, bridge, culvert, sidewalks, crosswalk or crossing with heavy plank sufficient in strength to warrant against the breakage or damage of the same. Hereafter, it shall be unlawful to drive, move, operate or convey over or across any paved street a vehicle, machine or implement with sharp discs or sharp wheels that bear upon said pavement; with wheels having cutting edges; with wheels having lugs, protruding parts or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent or otherwise injure or damage any pavement, gutter or curb; provided, where heavy vehicles, structures, and machines move along paved or unpaved streets, the Village Board is hereby authorized and empowered to choose the route over which the moving of such vehicles, structures or machines will be permitted and allowed; and provided, school buses and emergency vehicles shall be permitted to use metal or metal-type studs the year around. It shall be permissible to use farm machinery with tires having protuberances which will not injure the streets; and it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to slide or skid. (Neb. Rev. Stat. §60-6,250)

SECTION 5-109: 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 a 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) (Adopted 3/11/13)

Article 2 – Streets

SECTION 5-201: NAMES AND NUMBERS

A. The Village Board may at any time by ordinance rename any street or provide a name for a new street. Buildings used for residence or business purposes located along such streets shall retain their previously assigned numbers, and the street commissioner shall give notice to the owner(s) or occupant(s) of any buildings located along such named or renamed streets.

B. It shall be the duty of the street commissioner, upon the erection of any new building, to assign the proper numbers to said building and to give notice to the owner(s) or occupant(s) that such new buildings have had numbers assigned to them.

SECTION 5-202: 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 5-203: 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 Village Board shall deem necessary. When a petition for the construction of any such crossing is filed by an interested resident in the office of the village clerk, he 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 5-204: MIXING CONCRETE

It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever and to use said pavement as a mixing board for said material.

SECTION 5-205: HARMFUL LIQUIDS

It shall be unlawful for any person to place or permit to leak onto any street or in any gutter, waste gasoline, kerosene or high lubricating oils, which damage or act as a solvent upon said streets.

SECTION 5-206: UTILITY POLES, WIRES, MAINS

A. Poles, wires, gas mains, pipe lines and other appurtenances of public

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

SECTION 5-207: BURNING ON PAVEMENT; COMBUSTIBLE MATERIALS

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

SECTION 5-208: 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) (Adopted 3/11/13)

Article 3 – Sidewalks

SECTION 5-301: DUTY TO REMOVE SNOW, SLEET AND ICE; PENALTY

It shall be the duty of the occupant of each lot or parcel of land in said village to remove all snow, sleet and ice from the sidewalks adjacent thereto within five hours after the same has accumulated thereon. If snow, sleet or ice 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. Any such occupant or owner who fails to remove the snow, sleet or ice accumulated on the adjacent sidewalks within the time aforesaid shall be fined upon conviction not more than \$10.00 and shall pay the costs of prosecution and the cost of the removal of such snow, sleet or ice. (Neb. Rev. Stat. §17-557)

SECTION 5-302: DUTY TO REMOVE BRANCHES AND SHRUBBERY; PENALTY

It shall be the duty of the occupant of each lot or parcel of ground in said village to keep the sidewalks adjacent thereto free from overhanging branches and free from limbs to a height of 7½ feet and to keep such sidewalks free from encroaching hedges or shrubbery; and no tree, shrubbery or hedge shall be permitted closer than 18 inches to the sidewalk. It shall be the duty of the occupant of each lot or parcel of ground abutting on any intersection to trim and or remove any shrubbery or other obstacle which obstructs the view for a distance of 10 feet from such intersection. Any such occupant or owner who fails to remove the overhanging branches and limbs or other encroachments within three days after receiving written notice to do so, shall be fined upon conviction not more than \$10.00 and shall pay the costs of prosecution and the costs of the removal of such encroachments. (Neb. Rev. Stat. §17-557.01)

SECTION 5-303: DUTY TO REPAIR; LIABILITY

Every owner of any lot or piece of land within the limits of this village shall at all times keep and maintain the sidewalks along and contiguous to said lots or pieces of land in good and proper repair and in a condition reasonably safe for all travelers thereon. In case the owner or owners of any lot or land abutting on any street or avenue or part thereof shall fail to repair any sidewalk in front of his, her or their lots or land within the time and in the manner as directed and required by this article after having received due notice to do so, the said owner(s) shall be liable for all damages and injury occasioned by reason of the defective or dangerous condition of any sidewalk; the Board of Trustees shall have power to cause such sidewalks to be repaired and assess the costs thereof against such property. (Neb. Rev. Stat. §17-557)

SECTION 5-304: MATERIALS; EXTENT OF REPAIRS PERMISSIBLE; WIDTH

All sidewalks on either side of the streets and avenues of the Village in front of or along any lots or land abutting upon the same which shall be hereinafter constructed,

reconstructed or replaced shall be made of concrete. No person shall construct, reconstruct or replace any sidewalk with any other material; provided, however, the Board of Trustees may by resolution permit other materials to be used on certain streets. No person shall repair any sidewalk constructed of material except as hereinbefore prescribed when such repair shall require any new stringer or shall exceed in the aggregate one-third of the total amount of running feet in the sidewalks as repaired; and when any sidewalk within the Village shall require repairs to be made thereon, which said sidewalk is constructed of wooden board or planks and stringers, the person or persons repairing the same shall not place any new stringers therein nor lay or replace boards or planks in such sidewalks, which boards or planks shall exceed in the aggregate one-third of the total number of running feet in such sidewalks. Such sidewalks shall not, in any event, be repaired unless such repairs shall first be consented to and authorized in writing by the committee on streets and sidewalks or the street commissioner, and the said committee shall cause a copy of such written authority to be filed with the village clerk. All sidewalks in front of or along any lots or parcels of land within the fire limits where curbing is set or about to be set shall be constructed not less than the width of the curb. All other sidewalks in the Village shall be not less than 4 feet in width.

SECTION 5-305: MANNER OF CONSTRUCTION

All sidewalk construction shall be done strictly in accordance with and pursuant to the instruction and direction of the street commissioner.

SECTION 5-306: NEW SIDEWALK; NOTICE

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

SECTION 5-307: REPAIRING SIDEWALK; NOTICE

Whenever the street commissioner shall deem it necessary that any sidewalk shall be repaired or it shall be required by the Village Board or the committee on streets and walks, he or it shall notify the owner of the lot or piece of land along and contiguous to which such sidewalk is situated to repair the same within 24 hours from and after the giving of such notice. Oral notice to the owner shall be deemed sufficient. If the owner is not found by the street commissioner, then a written notice left on the house situated on such lot or piece of ground or posted upon said premises shall be sufficient and the 24 hours shall begin to run from the leaving or posting of such notice, as the case may be.

SECTION 5-308: RECONSTRUCTING SIDEWALK; NOTICE

Whenever the Village Board shall deem it necessary that an old sidewalk be replaced or reconstructed, it shall order the same to be done and the street commissioner shall give notice in the manner and form provided in Section 5-304 of this article, to replace or reconstruct the same within 30 days from and after such notice.

SECTION 5-309: FAILURE TO CONSTRUCT, RECONSTRUCT OR REPAIR

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

SECTION 5-310: CONSTRUCTION BY PETITION OR AGREEMENT

A. If 60% of the record resident front footage owners of property subject to assessment for sidewalk improvements petition the Board of Trustees to construct the same, the board shall proceed in all things as though such construction had been ordered by it.

B. Upon the petition of an abutting owner in fee simple of property subject to assessment for sidewalk improvements, the Board of Trustees may order permanent sidewalks built in accordance with this article upon the owner making, executing and delivering to the Village an agreement that he or she will pay the engineering service fee and the cost of the construction of the sidewalk and that such costs of construction, until paid, shall be a perpetual lien upon the real estate abutting the sidewalk to be constructed. The owner grants the Village the right to assess and levy the costs of such construction against his or her 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.

(Neb. Rev. Stat. §17-510)

Article 4 – Construction of Private Drives

SECTION 5-401: APPLICATION

Before any person, firm or corporation constructs a private drive onto any public street or alley, an application shall first be made to the Village Board for a permit for such construction. See Section 5-209 for the requirements for cutting into pavement. Such application shall be acted upon by the Village Board at a special or regular meeting as determined by the Board.

SECTION 5-402: PRIVATE DRIVE SPECIFICATIONS

Private drives shall not exceed 24 feet in width and shall not be constructed within 10 feet of adjacent lot lines unless such adjacent lots are owned by the applicant.

SECTION 5-403: APPLICATION REQUIREMENTS

All driveway applications shall contain the following information:

- A. The addition, block and lot which the driveway is to serve;
- B. The location of the proposed driveway with reference to adjacent lot lines;
- C. The width of the driveway and type of street surface to which the driveway will connect.

SECTION 5-404: APPROVAL OF BOARD

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

Article 5 – Penal Provisions

SECTION 5-501: VIOLATION; PENALTY

A. 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 a misdemeanor 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.

B. Whenever a nuisance exists as defined by this chapter, the Village may proceed in a suit in equity to enjoin, abate and remove the same, temporarily and permanently, in the manner provided by law.

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

(Am. by Ord. No. 1-13-03-4, 1/13/03)