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CHAPTER 5 – PUBLIC WAYS AND PROPERTY

Article 1 – Public 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

Trees and shrubs growing upon or near lot lines or upon public ground and interfering with the use or construction of any public improvements shall be deemed obstructions under this article. The roots of said trees and shrubs may be removed by the Village 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. (Neb. Rev. Stat. §17-557.01)

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 is 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 work is being done. A suitable passageway for pedestrians, protected and lighted in the manner required by the Village Board, shall be maintained within the public space included in the permit.

SECTION 5-104: OVERHANGING BRANCHES

1. The owner or occupant of any lot, piece, or parcel of ground abutting or adjacent to any street or sidewalk over which tree branches extend shall at all times keep such branches or limbs trimmed to the height of at least eight feet above the surface of said street or walk.

2. Whenever the limbs or branches of any tree(s) extend over streets or sidewalks contrary to the provisions herein, 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 from the village clerk stating that the Village will remove them and charge the costs thereof to the

owner or occupant as a special assessment for improvements, as herein provided, if said resolution is not complied with.

3. In the event the property owner is a nonresident of the county in which the property lies, before levying any special assessment against that property the Village shall 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. The last known address 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 5-105: CUTTING CURB; PERMIT

1. It shall be unlawful for any person to cut into any paving, curb, or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained a written permit from the Village Board therefor. Before any permit is issued by the Board, 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 chief street official or of the committee of the Village Board on streets and alleys. In addition to making the deposit above set forth, 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.

2. Before any person shall obtain a permit, he shall inform the village clerk of the place where such cutting is to be done, and it shall be the chief street official's duty to inspect the place of entry into the paving, sidewalk, or curb, before the same is cut. When any person cuts into any paving, it shall be his duty to follow 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 shall inform the chief street official, 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 chief street official, under the supervision and inspection of the village engineer or the committee of the Village Board on the 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. The Board may consent to the work of cutting and closing the paving to be done by the party holding such permit.

(Neb. Rev. Stat. §17-567)

SECTION 5-106: 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 waste waters that collect on the said sidewalk or street. Any eave spout erected on any dwelling or business building shall be constructed to drain into the alley or, where it is found to be impossible to drain into an alley, shall be buried beneath the sidewalk and drain into the street.

SECTION 5-107: HEAVY EQUIPMENT

1. 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; 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.

2. 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.

3. It shall be permissible (A) for school buses and emergency vehicles to use metal or metal-type studs any time of the year; (B) to use farm machinery with tires having protuberances which will not damage the streets; and (C) 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 5-108: REAL PROPERTY; ACQUISITION, CONSTRUCTION; ELECTIONS, WHEN REQUIRED

1. The Village is authorized and empowered to (A) purchase, (B) accept by gift or devise, (C) purchase real estate upon which to erect and (D) erect a building or buildings for an auditorium, fire station, village building or community house and maintain, manage and operate the same for the benefit of village residents.

2. Except as provided below, before any such purchase can be made or any building erected, the question shall be submitted to the electors of the Village at a general municipal 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.

3. 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:

A. 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 registered voters of the Village equal in number to 15% of the registered voters of the Village voting at the last regular municipal 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 voters of the Village at a general municipal election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then, nor within one year following the election, be purchased or constructed; or

- B. The Village Board may proceed without providing the notice and right of remonstrance required in subdivision (A) 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 Village Board after notice and public hearing as provided in Neb. Rev. Stat. §18-1755.

(Neb. Rev. Stat. §17-953, 17-953.01)

SECTION 5-109: 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 5-110: 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 5-111: REAL PROPERTY; SALE AND CONVEYANCE

1. Except as provided in 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:

- A. Such property is being sold in compliance with the requirements of federal or state grants or programs;

- B. Such property is being conveyed to another public agency; or
- C. Such property consists of streets and alleys.

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

3. 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. However, if a remonstrance against such sale, signed by legal electors thereof equal in number to 30% of the electors of the Village voting at the last regular municipal election held therein be filed with the Village Board within 30 days after the third publication of the notice, such property shall not then nor within one year thereafter be sold; and real estate now owned or hereafter owned by the Village may be conveyed without consideration to the State of Nebraska or to the Nebraska Armory Board 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.

4. Following passage of the resolution directing a sale, publication of the notice of the proposed sale and passage 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.

(Neb. Rev. Stat. §17-503, 17-503.01)

SECTION 5-112: PERSONAL PROPERTY; SALE AND CONVEYANCE

1. The village may convey any personal property owned by it. Such sale shall be exercised by 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, notice of the sale shall also be published once in a legal newspaper published 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.

2. Personal property may be conveyed notwithstanding the procedure in subsection (1) of this section when:

- A. Such property is being sold in compliance with the requirements of federal or state grants or programs or
- B. Such property is being conveyed to another public agency.

(Neb. Rev Stat. Sec. 17-503.02)

Article 2 – Streets

SECTION 5-201: NAMES AND NUMBERS

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 a street shall retain their previously assigned numbers and the street commissioner shall give notice to the owners or occupants of any buildings located along such named or renamed streets. It shall be the duty of the street commissioner, upon the erection of any new building, to assign the proper number to said building and to give notice to the owner or occupant that such new building has had a number assigned to it.

SECTION 5-202: WIDENING OR OPENING

The Village Board shall have the power to open, widen or vacate any street, alley or lane within the limits of the Village and to create, open and improve any new street, alley or lane. In the event of such action, the damages sustained by the affected property owner shall be determined in such manner as provided by ordinance. (Neb. Rev. Stat. §17-558, 17-559, 75-704 through 75-724)

SECTION 5-203: EXCAVATION; DRIVING STAKES

It shall be unlawful for any person to make an excavation in any street for any purpose or to drive any peg or stake of any kind into the pavement in any street or alley without first procuring the consent of the Street Committee of the Village.

SECTION 5-204: HARMFUL LIQUIDS

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

SECTION 5-205: PETITION FOR IMPROVEMENTS

1. 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(s), alley(s), public ways 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, causing such work to be done or such improvement to be made and contracting therefor.

2. To pay the cost of such improvement, the Board shall levy assessments on the lots and parcels of land abutting on or adjacent to such street(s) or alley(s) especially benefited thereby in such district in proportion to such benefits. 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 Village 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 5-206: CONSTRUCTION ASSESSMENT

1. 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.

2. 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 in or of general circulation in the Village at least four weeks before the same shall be held. In lieu of such aforementioned notice, personal service may be had upon the persons owning or occupying the property to be assessed.

3. Such assessments shall be known as "special assessments 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 assessments 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 said assessment shall become delinquent, it shall draw interest at the legal interest rate per annum.

4. 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. The last known address 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)

SECTION 5-207: CONSTRUCTION NOTICE

The Street Committee shall notify the owners in fee simple of real estate abutting a street, alley, or a part thereof which is to be put under contract for paving or repaving. Notice shall also be given to all gas, electric service and telephone companies. Notice shall also be given to all consumers of gas, water, and sewer services which will

be discontinued during such construction. Said notice shall be published one time in a legal newspaper at least 20 days prior to the beginning of such construction by the party undertaking such construction, and said notice shall state at what date connections must be made and excavation completed. All gas, water, sewer, and underground connections must be made prior to the paving or repaving of the street under construction. After expiration of such time, permits for excavation will not be issued, nor will excavation be allowed, until after the completion of the pavement in said street or alley and the formal final acceptance thereof by the Street Committee.

SECTION 5-208: DRIVEWAY APPROACHES

The Street Committee 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 his/her agent, directing the repair or replacement of such driveway approach. If the property owner fails or neglects to cause such repairs or replacements to be made within 30 days of the mailing of such notice, the Street Committee may cause such work to be done and assess the cost upon the property served by such approach. (Neb. Rev. Stat. §18-1748)

SECTION 5-209: UTILITY LINES, WIRES, ETC.

1. 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 Village Board, public service companies heretofore or hereafter granted right of way for the erection and maintenance of poles, conduits, gas mains, pipe lines and wires 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 poles, wires, gas mains, pipe lines and other appurtenances to such places and in such manner as shall be designated by said Board.

2. 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 lo-

cated 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 5-210: VACATING PUBLIC WAYS; DEFINITIONS; ASCERTAINING DAMAGES

1. 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/her property and which result from the vacating of such street, avenue, alley, lane or similar public way by the Village Board.

2. "Special damages" shall not mean those losses, damages or injuries that a property owner suffers 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.

3. The board 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.

4. 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 5-211: 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:

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

2. *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 has no effect on claims for special damages, as defined in Section 5-210, by the abutting property owners, but does create the presumption that the Village Board's action was proper. However, if all the abutting property owners do not sign the consent/waiver form, the Village Board may still proceed with vacating such street, avenue, alley, lane or similar public way under the authority granted them by Neb. Rev. Stat. §17-558 and 17-559.

3. *Ordinance.* The Village Board shall pass an ordinance that shall state essentially the following:

- A. A declaration that the action is expedient for the public good or in the best interests of the Village.
- B. A statement that the Village shall have an easement for maintaining all utilities.
- C. A method or procedure for ascertaining special damages to abutting property owners.

4. *Filing.* 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 5-212: STREET OR ALLEY VACATIONS; TITLE

1. 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.

2. 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:

- A. 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
- B. 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 5-301: DEFINITION

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

“Sidewalk space” shall mean that portion of the street between curb lines and adjacent property lines.

SECTION 5-302: DUTY TO KEEP SIDEWALKS CLEAR

1. It shall be the duty of the owner of any lot, land or real estate in the Village to clear all ice and snow from the sidewalks adjoining the said property within 24 hours after the cessation of any snow storm. Said snow and ice may not be placed in the street. It shall be unlawful to place snow and ice on any alley or street right of way from private sidewalks, driveways, parking lots, roofs or other private property.

2. It shall be the duty of the occupant as well as the owner of any lot, land or real estate in the Village to clear all obstructions and accumulations from the sidewalks adjoining said property. Such obstructions or accumulations shall include, but not be limited to, glass and other sharp objects; grease, mud or other slick material; loose gravel, leaves, tree limbs, animal waste material, and other hazardous material.

SECTION 5-303: 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 limbs to a height of eight feet and to keep such sidewalks free from encroaching hedges or shrubbery. 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 25 feet from such intersection. Any such occupant or owner who fails to remove the overhanging branches and limbs or other encroachments within five days after receiving written notice to do so, upon conviction shall be fined and shall pay the costs of prosecution and the costs of the removal of such encroachments. The amount of said fine shall be set by resolution of the Village Board and shall be on file in the office of the village clerk for public inspection during office hours. (Neb. Rev. Stat. §17-557.01)

SECTION 5-304: TREES IN SIDEWALK SPACE; PERMIT

1. No person, or persons, shall plant or allow to grow any tree within the sidewalk space without first making a written or verbal application to the Village Board and receiving a written permit therefor. 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.

2. In the event the property owner is a nonresident 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 nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. No fee shall be charged for said permit, and nothing in this section shall be construed to apply to any existing trees now growing within the sidewalk space. (Neb. Rev. Stat. §17-557.01, 18-1720)

SECTION 5-305: 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/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, they shall be liable for all damages and injury occasioned by reason of the defective or dangerous condition of any sidewalk. The chairman and 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, 17-557.01)

SECTION 5-306: REPAIRING SIDEWALK; NOTICE

Whenever the Village Board or the committee on streets and walks deem it necessary that a sidewalk is in need of repair, the owner of the lot or piece of land along and contiguous to which such sidewalk is situated shall be notified to make arrangements within 48 hours to repair the same. Said repairs shall be completed within 21 days after issuance of said notice. Oral notice to the owner shall be deemed sufficient. If the owner is not found by the committee, then a written notice left in the house situated on such lot or piece of ground or posted upon said premises shall be sufficient, and the 48 hours shall begin to run from the leaving or posting of such notice, as the case may be.

SECTION 5-307: RECONSTRUCTING SIDEWALK; NOTICE

Whenever the Board shall deem it necessary that an old sidewalk be replaced or re-

constructed, it shall order the same to be done and the Street Committee of the Village shall give notice, in the manner and form provided in Section 5-306 of this article, to replace or reconstruct the same within 21 days from and after such notice.

SECTION 5-308: 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 sidewalk, the Street Committee shall proceed at once without further notice to such owner or person to have such sidewalk 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 5-309: 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. The Street Committee shall thereupon notify the owner of such lot or piece of ground or his/her agent of the work or improvement to be done, and such owner or person so notified shall be allowed 30 days from the date of said notice in which to construct the same. All sidewalk construction shall be done strictly in accordance with and pursuant to the instruction and direction of the Street Committee of the Village.

SECTION 5-310: CONSTRUCTION BY PETITION OR AGREEMENT

1. 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 of Trustees shall proceed in all things as though such construction had been ordered by it.

2. 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 making, executing and delivering to the Village an agreement by the owner that he/she (A) will pay the engineering service fees and the cost of the construction of the sidewalk; (B) grants the Village the right to assess and levy the costs of such construction against his/her real estate abutting the sidewalk improvement; and (C) promises to pay such costs with interest; and (D) agrees that such costs of construction, until paid, shall be a perpetual lien upon the real estate abutting the sidewalk to be constructed. 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; PERMIT

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. Such application shall be acted upon by the Board at a special or regular meeting.

SECTION 5-402: PRIVATE DRIVE SPECIFICATIONS

Private drives shall not exceed 24 feet in width and shall not be constructed within ten 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: (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.

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 Provision

SECTION 5-501: VIOLATION; PENALTY

Any and all persons violating any of the provisions of the several articles of this chapter for which a penalty is not therein provided shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not more than \$500.00. Each day that maintenance of the same continues shall constitute a separate offense.