

**TITLE XVII: LOCAL LEGISLATION**

Chapter

**ADOPTING ORDINANCE**

**170. GENERAL PROVISIONS**

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**ORDINANCE NO. 721**

**AN ORDINANCE to revise all the ordinances of the Village by adopting the Nebraska Basic Code of Ordinances, 2011, to repeal prior ordinances; to require filings; and to provide an effective date.**

**BE IT ORDAINED BY THE CHAIR AND BOARD OF TRUSTEES OF THE VILLAGE OF UTICA, NEBRASKA:**

**SECTION 1.** The general ordinances of the Village of Utica, Nebraska, are hereby revised, codified, and printed in book form as a Code of Ordinances through adoption of the Nebraska Basic Code of Ordinances for Villages prepared by the League of Nebraska Municipalities, published by American Legal Publishing Corporation, and composed of the following titles, including any local legislation in Title XVII:

**TITLE I: GENERAL PROVISIONS**

10. General Provisions

**TITLE III: ADMINISTRATION**

- 30. Elected Officials; Ordinances
- 31. Appointed Village Officials
- 32. Departments, Boards, and Commissions
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- 34. Elections
- 35. Finance and Revenue

**TITLE V: PUBLIC WORKS**

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- 70. General Provisions
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- 90. Leisure and Recreation
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- 92. Public Ways and Property
- 93. Animals

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- 110. Business Licensing
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**TITLE XIII: GENERAL OFFENSES**

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**TITLE XVII: LOCAL LEGISLATION**

**SECTION 2.** The Code of Ordinances contains all of the provisions of a general nature pertaining to the subjects enumerated and embraced in the Code of Ordinances. All prior ordinances pertaining to the subjects treated in the Code of Ordinances are repealed, except for the ordinances set forth in Title XVII, Local Legislation; and except, that nothing shall affect any rights acquired under, actions involving, or fines, penalties, forfeitures, or liabilities incurred pursuant to such ordinances prior to repeal.

**SECTION 3.** All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in the Code of Ordinances, including ordinances specified in this section, shall remain in effect unless repealed expressly or by necessary implication.

1. Vacating or setting the boundaries of streets, alleys, or other public places.
2. Annexing or detaching territory.
3. Granting or accepting easements, plats, or dedication of land to public use.
4. Providing for the acquisition or conveyance of real or personal property.
5. Authorizing or directing public improvements to be made.
6. Levying taxes or special assessments.
7. Appropriating money.

- 8. Granting franchises or special licenses.
- 9. Providing for the issuance of bonds or other instruments of indebtedness.

**SECTION 4.** All boards, commissions, councils, and other such bodies as established in ordinances or resolutions adopted prior to the adoption of the Code of Ordinances shall continue in existence and number of members unless specifically amended in the Code of Ordinances or until an ordinance abolishing, establishing, or otherwise changing such bodies is adopted or amended. All fees and charges established in ordinances or resolutions adopted prior to the adoption of the Code of Ordinances shall remain in effect unless amended in the Code of Ordinances or until an ordinance adopting a schedule of fees and charges is adopted or amended.

**SECTION 5.** At least one copy of the Code of Ordinances shall be on file in the office of the Village Clerk and available for inspection by members of the public during the hours the office is open for the ordinary transaction of business. The Village Clerk shall file a copy of the Code of Ordinances with the County Court.

**SECTION 6.** This ordinance shall take effect from and after it's passage, approval, and publication according to law.

Passed and approved March 7, 2011.

Garry Dittmar /s/  
Garry Dittmar, Chairperson

Rebecca Sandman /s/  
Rebecca Sandman, Village Clerk

(SEAL)



## **CHAPTER 170: GENERAL PROVISIONS**

### Section

#### 170.01 Official corporate seal

#### **§ 170.01 OFFICIAL CORPORATE SEAL.**

The official Corporate Seal of the Municipality shall be kept in the office of the Municipal Clerk, and shall bear the following inscription, "Seal, Village of Utica, Seward County, Nebraska." The Municipal Clerk shall affix an impression of the said official seal to all warrants, licenses, permits, ordinances, and all other official papers issued by order of the Governing Body and countersigned by the Municipal Clerk.

(Neb. RS 17-502)





## CHAPTER 171: ADMINISTRATION

Section

### *Boards, Commissions and Committees*

171.01 Community Development Agency

171.02 Aging Services Commission

### *Fiscal Management*

171.10 Sales and use tax

171.11 Economic Development program

## **BOARDS, COMMISSIONS AND COMMITTEES**

### **§ 171.01 COMMUNITY DEVELOPMENT AGENCY.**

(A) The Village Board of Trustees hereby finds and determines that it is necessary and desirable for purposes of providing for the redevelopment and general welfare of the village that a Community Development Agency be created pursuant to Neb. RS 18-2101.01.

(B) There shall be and there is created in and for the village, an agency to be known as the Community Development Agency of the Village of Utica, Nebraska, which shall consist of the Village Board of Trustees and which agency shall exercise all of the power and authority granted to a community redevelopment authority in Neb. RS 18-2101 to 18-2144 and 18-2147 to 18-2153, as amended and as hereafter amended.

(C) The Agency hereby created shall function in the same manner as the Village Board of Trustees and shall exercise such powers as are set forth in the above-described statutes and in the manner as shall be deemed appropriate from time to time by the Village Board of Trustees as the governing body of the village and as determined by resolution or ordinance duly adopted by said governing body from time to time.

(Ord. 2011-724, passed 8-1-11)

**§ 171.02 AGING SERVICES COMMISSION.**

(A) *Purpose.* It is the purpose of this section to authorize provision of a varied program of group activities and services through the Senior Citizens Program and Senior Center for the Village of Utica, Nebraska, and to establish, arrange for and deliver special individual and in-home services for those elderly whose independence and self-sufficiency is threatened by conditions beyond their control, and to develop the organizational and financial support within the community to ensure long term stability and continuity of the Center and its program by the utilization of all federal and state grants and funding available and fees and assessments from the participants of the program.

(B) *Appointment; term.* The Chairman, with the advice and consent of the Village Board, shall appoint the initial Aging Services Commission consisting of 10 members. Five of such members shall serve from their appointment through the first Tuesday in June of 1993. Five of whom shall serve from the date of their appointment through the first Tuesday in June of 1994. Thereafter, the Chairman, with the advice and consent of the Village Board shall appoint all future commission members for a term of 2 years. No member shall serve for more than 2 consecutive terms.

(C) *Organization; payment of vouchers.* The Aging Services Commission shall serve without compensation. At the time of its initial meeting following appointment of its members, and on its first meeting in June of each succeeding year, the Commission shall organize, by selection of a chairperson, secretary, and any additional officers deemed necessary. No member may serve in more than 1 office. The secretary shall keep full and correct minutes and records of all meetings and file the same with the Village Clerk, where they shall be available for public inspection. The Senior Citizen Program will assume physical responsibility for payment of vouchers presented by the Aging Services Commission.

(D) *Meetings.* A majority of the Aging Services Commission members shall constitute a quorum for the transaction of any business. It shall meet on the first Tuesday of each month or such other time and place as shall be determined by the Commission. Special meetings may be held upon the call of the chairperson or any 3 members of the Commission, but notice of such meeting shall be communicated to all members of the Commission in writing, at least 48 hours prior to the special meeting.

(E) *Duties; employees.* The village may employ a manager and such other employees and/or volunteers for the Program as may be required, and the salary and terms of such employment shall be determined and fixed by the Village Board. The Commission shall have general charge of the Aging Services Program, and may establish appropriate policies, plans and proposed budgets for operation of the Program, utilizing all of the available federal and state funding. To make the program as self-supporting as possible from such funds and from fees and assessments from the citizens taking part in such programs.

(F) *Fiscal management.* All funds and financing, including gifts, grants, fees and assessments shall be maintained in an account or accounts of the village for use and benefit of the Senior Citizens Program in accordance with this section, and in accordance with any conditions placed upon such receipts.

(G) *Village Board membership; control.* No member of the Village Board shall serve as a member of the Aging Services Commission but the Board may appoint 1 or more Board member to serve as ex-officio non-voting members of the Commission.

(H) *Decision making authority.* The Chairman and Board reserve the final decision making authority relative to all matters concerning the Senior Citizens Program established hereunder, and may modify, amend, enlarge or restrict the scope and operation of said Program by resolution of the Village Board. (Ord. 365, passed 11-29-91)

### ***FISCAL MANAGEMENT***

#### **§ 171.10 SALES AND USE TAX.**

(A) Pursuant to the approval of the electors of the Village of Utica, Nebraska, at the general election held on November 4, 2014, there is hereby adopted and imposed pursuant to the provisions of §§ 77-2701 to 77-27,135 Neb. RS, as amended, known as the Nebraska Revenue Act of 1967, and §§ 77-27,142 to 77-27,148 Neb. RS, as amended, known as the Local Option Revenue Act, a sales and use tax which tax shall be 1.50% upon the same transactions within the corporate limits of the village, on which the State of Nebraska is authorized to impose a tax pursuant to the provisions of the aforementioned statutes of the State of Nebraska as the same may from time to time be amended; said additional sales and use tax shall commence on April 1, 2015 and shall continue in perpetuity from the time of its first going into effect.

(B) The administration of the sales and use tax imposed by this section, the making of returns for the ascertainment and assessment, the provisions for tax claims and remedies, the laws governing consummation of sales, penalties and collection, and for the disposition and distribution of the taxes so imposed and collected shall be as provided by §§ 77-27,142 to 77-27,148 Neb. RS, as amended, §§ 77-2701 to 77-27,135 Neb. RS, as amended, as approved by the electors of the village at the general election held on November 4, 2014.

(C) The Village Clerk shall mail a certified copy of this section and a certified copy of a map of the Village of Utica, Nebraska, showing the corporate limits thereof to the Nebraska Tax Commission and Nebraska Department of Revenue immediately after the passage of this section and at least 120 days prior to April 1, 2015, as provided by law. (Ord. 741, passed 11-10-14)

**§ 171.11 ECONOMIC DEVELOPMENT PROGRAM.**

(A) The Economic Development Program is adopted as the official economic development program for the Village of Utica, pursuant to the requirements of Section 11 of the Local Option Municipal Economic Development Act of 1991.

(B) This plan shall be maintained on file with the Village Clerk, who shall make it available for the public to review during regular business hours.

(C) *Terms and conditions of the Program.*

(1) The goals of the Program shall be to create well-paying jobs for the citizens of the village; to expand labor markets of the village and Seward County; to attract new capital investment to the community to broaden the tax base; to retain existing jobs and make existing businesses more competitive and profitable; and provide economic diversification to ensure economic stability and vitality for the village and surrounding areas.

(2) Funds for the Program may be used for the following purposes: public works improvements, job credits, purchase of real estate, technical assistance, recruitment expenses, loans or grants for fixed assets or working capital, location expenses, loan guarantees job training assistance, building rehabilitation, small business development, tourism, contracting for administration of program, issuance of bonds, and as otherwise established by Nebraska law.

(3) The Program shall commence and end on a 10-year period.

(4) Collections of funds shall begin on June 1, 2015 and end on May 31, 2025.

(5) The source from which funds are to be collected shall be of that portion designated by the Chairman and the Village Board of Trustees of the 1.5% village local option sales tax.

(6) The total amount to be collected from the local sources of revenue for the Economic Development Program will be over a 10-year period, which will total \$185,000 and the annual amount shall be \$18,500.

(Ord. 742, passed 11-10-14)

## CHAPTER 172: PUBLIC WORKS

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- 172.002 Solid waste disposal and service agreements

#### *Wastewater*

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#### *Water*

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**GARBAGE**

**§ 172.001 GARBAGE COLLECTORS.**

*(A) License.*

(1) It shall be unlawful for any persons, corporations or other legal entities to collect, haul or convey wastes, refuse, garbage, rubbish, junk, hazardous waste, or solid waste (as those terms are defined under the laws of the State of Nebraska) for hire within the incorporated area of the village without first having procured a license to do so.

(2) Applications for a license to collect, haul or convey wastes, refuse, garbage, rubbish, junk, hazardous waste or solid waste for hire shall be made to the Village Clerk upon applications blanks furnished by the Village Clerk. Said application blanks shall set forth the name and residence of the

applicant, the business address used, the number and kinds of vehicles to be used, with a definite description of each such vehicle and such other information as may be required to satisfactorily identify the applicants and vehicles. Such applicant shall submit to the Village Clerk the required license fee as hereinafter provided, at the time of the filing of his application. Before any license shall be issued, the applicant shall execute and file with the Village Clerk a bond in the sum of \$1,000 with 1 or more sufficient sureties thereon to be approved by the Village Board conditioned that the applicant shall indemnify and save harmless the village from any damage or injury due to or on account of the act, neglect, fault or default of such applicant and conditioned further that such applicant shall comply with all ordinances or regulations of the village and State of Nebraska respecting the collecting, hauling or conveying of wastes, refuse, garbage, rubbish, junk, hazardous waste and solid waste.

(3) It shall be unlawful for any persons, corporations, or other legal entities licensed under this section, or any other persons, to haul or convey any solid waste generated within the corporate limits of the village to any facility or system (as those terms are defined under state law) with which the village, either alone or in combination with other cities, villages or counties, are not contracted for the safe and sanitary disposal of solid waste generated within the village's jurisdiction area.

(4) All persons, corporations, or other legal entities licensed under this section shall cooperate with their customers in addition to services regarding the collection, hauling, and conveying of solid waste for services for curbside pickup of recyclable materials, yard waste, and discarded appliances.

(5) All persons, corporations, or legal entities licensed under this section shall cooperate with their customers within the village in finding outside sources for the collection, hauling, conveying and disposal of hazardous waste generated within the corporate limits of the village.

(6) All persons, corporations, or legal entities licensed under this section shall provided adequate notice of any rate increase and appear at a meeting before the Board of Trustees to review and justify said rate increase to the Board of Trustees and public.

(B) *License fee.* An annual license fee of \$25 shall be charged for each vehicle used in the collecting, hauling and conveying of wastes, refuse, garbage, rubbish, junk, hazardous waste or solid waste. All license fees shall be due and payable on January 2 of each year and all licenses hereunder shall expire on December 31 following issuance.

(C) *License revocation; violations, penalty.*

(1) The license of any person, corporation, or other legal entity licensed to collect, haul or convey waste, refuse, garbage, rubbish, junk, hazardous waste or solid waste within the village may be revoked by the Governing Body of the village for failure to comply with the provisions of this section. No revocation of license shall be made except on public hearing before the Governing Body after notice of such hearing, stating the reason therefore, to the licensee of the time and date of said hearing by certified or registered mail.



(2) Any person, corporation, or other legal entity found to be in violation of any of the provisions of this section shall be subject to a fine not to exceed the sum of \$500.  
(Ord. 412, passed 6-6-94)

**§ 172.002 SOLID WASTE MANAGEMENT AND DISPOSAL.**

In order to provide for the effective management and disposal of solid waste the municipality is empowered and authorized to enter into agreements with persons, corporations, or other legally licensed entities to accept waste generated within the municipal jurisdiction upon such terms and conditions as may be appropriate.  
(Ord. 412, passed 6-6-94)

**WASTEWATER**

**§ 172.010 MINIMUM RATES.**

(A) All sewer consumers shall be liable for sewer rates, based upon the following classifications. All customers shall be liable for the rates as provided herein, unless the customer shall by written order direct that the Utility Superintendent shuts off the water at the stop box, in which case the user shall not be liable thereafter for sewer use until the water is turned on again.

(B) Minimum flat rates are charged as follows:

Tier 1 Consumers. . . . .	\$20.00/month
Tier 2 Consumers. . . . .	\$48.00/month
Tier 3 Consumers. . . . .	\$51.00/month
Tier 4 Consumers. . . . .	\$247.00/month
Tier 5 Consumers. . . . .	\$353.00/month

(Ord. 709, passed 2-2-09; Am. Ord. 722, passed 6-6-11; Am. Ord. 749, passed 1-4-16)

***UTILITY SERVICES*****§ 172.015 DEFINITIONS; PROPERTY OWNER RESPONSIBLE FOR PAYMENT OF BILLS FOR WATER/SEWER SERVICES PROVIDED BY THE VILLAGE; RESUMPTION OF SERVICES.**

(A) For the purposes of this chapter the term ***CUSTOMER or CONSUMER*** shall mean the owner of the real property where water and sewer services are provided as determined by the records maintained at the office of the County Clerk of Seward County, Nebraska.

(B) The owner of the real property shall retain the utility services in their name and shall be responsible for the payment of all bills for all water and sewer services provided by the village. The village shall send out separate bills for each property receiving water and/or sewer services and such bills shall be paid directly to the village in accordance with the provisions of this chapter.

(C) If water and/or sewer services are discontinued to a real property for any reason, the water and/or sewer services to that property shall not be resumed until all fees, charges and bills for water and/or sewer services for that property are paid in full.

(Ord. 756, passed 4-3-17)

***WATER*****§ 172.020 METERS.**

(A) *Required; installation; repair; testing and deposit.*

(1) All water service connected with the municipal water system shall have placed thereon a water meter, set in place by the Municipal Water Department. All such water meters shall remain the property of the municipality. No person than the Water Commissioner, his assistants or a plumber under the direction of the Water Commissioner, shall be allowed to set meters. All meters so set and installed will be kept in repair at the expense of the municipality, unless the damage done was caused by the negligence or willful conduct or act of the consumer; provided, when water meters get out of repair on account of the consumer's negligence or willful conduct, the Water Commissioner shall repair or replace said meter and the total expense there shall be paid for by the consumer. When such meters are entirely worn out, they will be replaced by the municipality. Hereafter, all meters shall be sealed in 3 places, to-wit: Once on the burr connections, on each side and on the cover of the register dial; and no person shall deface, injure, or break said seal unless authorized to do so by the Water Commissioner. All water

meters will be tested for accuracy on a regularly basis and changed or calibrated as required. In addition, at a consumer's request, a field test of the water meter accuracy may be accomplished by the Water Commissioner. If after the accomplishment of a field test indicating accuracy of a consumer's meter, said consumer is not satisfied with the field results, the consumer may pay a \$30 deposit to the municipality and request that a meter test be performed by an outside meter testing facility. If the test results indicate accuracy within published American Waterworks Association standards, the deposit will be paid by the consumer to defray the expenses of testing. If the test indicates inaccuracy according to American Waterworks Association standards, the deposit will be returned to the consumer and adjustments will be made to the last billing, if deemed necessary by the Water Commissioner.

(2) The Water Commissioner shall have the right to order a meter applied to any service pipe whenever he may deem it advisable and collect meter rates for water. Meters shall be located on premises so they will be conveniently accessible for inspection and reading strictly in accordance with the provisions of this code.

(B) *Location.* All meter pits, if meters are not set in basements, shall be agreed upon by the municipality and consumer and shall be of such design as sanctioned and approved by the Chairperson and Village Board; provided all meters shall be set in a horizontal position so that the same may be easily read by the Water Commissioner, or his/her agents, whether set in meter pit or in basement. The Water Commissioner, or his/her agent, for reading meters, shall whenever it is inconvenient to make readings of any meter now set or hereinafter to be set in meter pits or in basements, be empowered to give the consumer 20 days notice in writing to reset said water meter in a horizontal position, and if the consumer refuses or neglects to do so, then the Water Commissioner or his/her agents shall reset said meter horizontally and the costs thereof shall be charged to and paid by the consumer as water rent.

(C) *Tampering.* It is hereby declared unlawful for any person, firm or corporation to tamper with any water meter or by any means of any contrivance or device to divert the water from the service pipe so that the same amount pass through the said meter, or while passing through said meter, to cause the same to register inaccurately.

(Ord. 553, passed 6-9-99)

#### **§ 172.021 DEPOSIT FOR WATER SERVICE.**

(A) Every person or persons desiring a supply of water must make a service deposit in the amount of \$50 for consumers who own their residence or business, or \$90 for consumers who do not own their residence or business. Said deposit shall be returned to those consumers, who own their residence upon request after 1 year of prompt payments. Said deposit shall be returned to those consumers who do not own their residence upon the payment of the final bill. Water shall not be supplied to any house or private service pipe except upon special permission of the Governing Body; provided, the entire cost of laying mains, service pipe, and supply pipe shall be paid by the consumer. The municipality is not obligated to provide water service to non-residents.

(B) In the event that water service to a commercial entity is disconnected, a deposit shall be required before water service is restored.  
(Ord. 691, passed 10-3-05)

**§ 172.022 RESTRICTED USE; WATER USE SCHEDULES.**

(A) The Governing Body or the Utilities Superintendent may order a reduction in the use of water due to fire, drought, or other good and sufficient cause.

(B) In the event that the Governing Body or the Utilities Superintendent orders such a reduction, the Governing Body or the Utilities Superintendent shall have the authority to place into effect a water use schedule by address, street number, or by any other method reasonably deemed to alleviate said shortage. Notice of said schedule shall be given by posting of said notice in the same manner for posting ordinances otherwise set forth in this code and shall be in effect at the time of posting. Notice may also be given by any other method reasonably deemed to provide notice to customers.

(C) The municipality shall not be liable for any damages caused by the reduction of water use under this section.

(D) Any consumers, persons, corporations or other entities found to be in violation with provisions of this section shall be subject to penalties as set forth in this code.  
(Ord. 506, passed 10-6-97)

**§ 172.023 MINIMUM RATES.**

(A) All water consumers shall be liable for water rates, based upon the following user classifications. All customers shall be liable for the rates as provided herein, unless the customer shall by written order direct that the Utility Superintendent shuts off the water at the stop box, in which case the user shall not be liable thereafter for water rental until the water is turned on again.

(B) Minimum base rates are charged as follows:

¾ " and 1" Meters. . . . .	\$32.00/month
1½" Meters. . . . .	\$41.00/month
2" Meters. . . . .	\$97.00/month
6" Meters. . . . .	\$520.00/month
Water Distribution Charges. . . . .	\$2.40/1,000 gallons

(C) Utility customers occupying a building, premises or structure receiving water service that is used for more than 1 single premises unit, or used for more than 1 single commercial business or enterprise or both, shall designate one party to be legally responsible for the account. (Ord. 708, passed 2-2-09; Am. Ord. 722, passed 6-6-11; Am. Ord. 764, passed 7-2-18)

#### § 172.024 WELLHEAD PROTECTION AREA.

(A) *Definitions.* For the purposes of this section the following definition shall apply unless the context clearly indicates or requires a different meaning.

**WELLHEAD PROTECTION AREA.** The surface and subsurface area surrounding the water well or well field supplying a public water system, through which contaminants are likely to move toward and reach such water well or well field.

(B) *Designation.* The village designates a wellhead protection area for the purpose of protecting the public water supply system. This delineation is based upon a map prepared by the Nebraska Department of Environmental Quality and presented to the Village of Utica in May 2001. The legal description set forth in Ordinance 628 is incorporated by reference as if fully set forth herein.

(C) *Wellhead protection map.* The map show the Wellhead Protection Area for the village. The Nebraska Department of Environmental Quality drew the map in 2001 for the village. The delineation is based on the available data that was collected from irrigation, domestic and public water wells. The EPA computer model WhAEM was used to draw this map using available aquifer information. If the village would like a modification to the map for eased in making zoning regulations, adding a new well location or other adjustments that would update the Wellhead Protection Area, they can contact the Nebraska Department of Environmental Quality for assistance. (Ord. 594, passed 8-6-01; Am. Ord. 628, passed 10-7-02)

#### § 172.025 WATER DEPARTMENT; OPERATION AND FUNDING.

The municipality owns and operates the Municipal Water Department through the Utilities Superintendent. The governing body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Water Department may each year levy a tax not exceeding the maximum limit prescribed by state law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Water Fund and shall remain in the custody of the Municipal Treasurer. The Utilities Superintendent shall have the direct management and control of the Municipal Water Department and shall faithfully carry out the duties of his office. The Utilities Superintendent shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department subject to the supervision and review

of the governing body. The governing body shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the Municipal Clerk for public inspection at any reasonable time.

(Neb. RS 17-531, 17-534, 19-1305)

#### **§ 172.026 DEFINITIONS.**

For purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**MAIN.** Any pipe other than a supply or service pipe that is used for the purpose of carrying water to, and dispersing the same in the municipality.

**SEPARATE PREMISE.** More than 1 consumer procuring water from the same service or supply pipe. The second premise may be a separate dwelling, apartment, building, or structure used for a separate business.

**SERVICE PIPE.** Any pipe extending from the shut-off, stop box, or curb cock at or near the lot line to and beyond the property line of the consumer to the location on the premise where the water is to be dispersed.

**SUPPLY PIPE.** Any pipe tapped into a main and extending from there to a point at or near the lot line of the consumer's premise where the shut-off, stop box, or curb cock is located.

#### **§ 172.027 CONSUMER'S APPLICATION.**

Every person or persons desiring a supply of water must make application therefor to the Municipal Clerk. The Clerk may require any applicant to make a service deposit, set by resolution of the governing body. At the end of 1 year, the deposit shall be returned to those consumers who own property where they reside, contingent upon having a history of prompt payments. Said deposit shall be returned to those consumers who do not own their residence upon the payment of the final bill. The water may not be supplied to any house or private service pipe except upon the order of the Superintendent. The Department shall not supply water service to any person outside the corporate limits without special permission from the governing body; provided, the entire cost of laying mains, service pipe, and supply pipe shall be paid by the consumer. Nothing herein shall be construed to obligate the municipality to provide water service to non-residents.

(Neb. RS 17-537, 19-2701)

**§ 172.028 WATER CONTRACT.**

The municipality through its Water Department, shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The municipality may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a municipal commercial main is now or may hereafter be laid and may also furnish water to persons whose premises are situated outside the corporate limits of the municipality, as and when, according to law, the governing body may see fit to do so. The rules, regulations, and water rates hereinafter named in this subchapter, shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served. Without further formality, the making of application on the part of any applicant or the use or consumption of water service by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the municipality, to which said contract both parties are bound. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the governing body may hereafter adopt, the Utilities Superintendent or his agent, may cut off or disconnect the water service from the building or premise or place of such violation. No further connection for water service to said building, premise, or place shall again be made save or except by order of said Superintendent or his agent.

**§ 172.029 INSTALLATION PROCEDURE.**

In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. After service pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of 24 hours or more, the Utilities Superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the consumer.

(Neb. RS 17-537)

**§ 172.030 INSTALLATION EXPENSE.**

Where water service is available, the expense of providing water service from the main shall be paid by the consumer. If required, the municipality shall provide to the consumer the stop box, and the cost of installation of the stop box shall be paid by the consumer. The consumer shall be required to pay the expense of procuring the services of a licensed plumber and shall pay the expense of furnishing and installing pipe, trenching, and the necessary labor to bring water service from said main to the place of dispersement.

(Neb. RS 17-542)

**§ 172.031 REPAIRS AND MAINTENANCE.**

All repairs to the municipally owned pipe and other appurtenances shall be paid by the municipality, except where it is found by the Utilities Superintendent that the consumer is at fault for its state of disrepair. In that event, it shall be the duty of the consumer to replace or repair the said property owned by the Water Department. All other replacement and repair pipes and appurtenances shall be provided by the consumer and it shall be the duty of, the consumer to pay for the same.  
(Neb. RS 17-537)

**§ 172.032 FEES AND COLLECTIONS.**

The governing body has the power and authority to fix the rates to be paid by the water consumers for the use of water from the Water Department. All such fees shall be on file for public inspection at the office of the Municipal Clerk. The Municipal Clerk shall bill the consumers and collect all money received by the municipality on the account of the Water Department, He shall faithfully account for, and pay to the Municipal Treasurer all revenue collected by him, taking his receipt therefor in duplicate, filing one with the Municipal Clerk and keeping the other on file in the Water Department's official records.  
(Neb. RS 17-540)

**§ 172.033 DELINQUENT PAYMENTS.**

Water fees shall be due and payable monthly at the office of the Municipal Clerk by the 17th day of the month of billing. If the said fees are not paid by the 20th day of the month of billing, the charge shall be declared to be delinquent. Upon being deemed to be delinquent, as herein defined, the Municipal Clerk shall give a written notice to the customer of such delinquency and shall demand payment immediately. In the event the bill is not paid within 7 days after the sending of the notice, it shall be discretionary with the governing body to cut off service at any time; provided, if the delinquent customer is a known welfare recipient, notification must also be sent to the County Welfare Department by certified mail of the proposed termination. The governing body shall assess an additional fee set by resolution of the governing body and on file at the office of the Municipal Clerk in the event that water is shut off for the non-payment of any water bill, to compensate the municipality for the additional hook-up necessary to again provide water service to the delinquent customer.  
(Neb. RS 17-542, 18-416)

**§ 172.034 LIEN.**

In addition to all other remedies, if a customer shall for any reason remain indebted to the municipality for water service furnished, such amount due, together with any rents and charges in



arrears, shall be considered a delinquent water rent which is hereby declared to be a lien upon the real estate for which the same was used. The Municipal Clerk shall notify in writing or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of water rent. It shall be the duty of the Utilities Superintendent on June 1 of each year to report to the governing body a list of all unpaid accounts due for water together with a description of the premise upon which the same was used. The report shall be examined, and if approved by the governing body, shall be certified by the Municipal Clerk to the County Clerk to be collected as a special tax in the manner provided by law.

(Neb. RS 17-538)

**§ 172.035 WATER SHORTAGE; RESTRICTED USE.**

The governing body or the Utilities Superintendent may order a reduction in the use of water or shut off the water on any premise in the event of a water shortage due to fire or other good and sufficient cause. The municipality shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the municipality has no control.

(Neb. RS 17-537)

**§ 172.036 FIRE HYDRANTS.**

All hydrants for the purpose of extinguishing fires are hereby declared to be public hydrants, and it shall be unlawful for any person other than members of the Municipal Fire Department under the orders of the Fire Chief, or the Assistant Fire Chief; or members of the Water Department to open or attempt to open any of the hydrants and draw water from the same, or in any manner to interfere with the hydrants.

**§ 172.037 POLLUTION.**

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Municipal Water Department.

(Neb. RS 17-536)

**§ 172.038 MANDATORY HOOK-UP.**

All persons within 300 feet of a water main shall be required, upon notice by the governing body, to hook-up with the municipal water system.

(Neb. RS 17-539)

**§ 172.039 WATER SERVICE CONTRACTS.**

Contracts for water service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall move from the premise where service is furnished, or if the said premise is destroyed by fire or other casualty, he shall at once inform the Utilities Superintendent who shall cause the water service to be shut off at the said premise. If the consumer should fail to give such notice, he shall be charged for all water used on the said premise until the Utilities Superintendent is otherwise advised of such circumstances.  
(Neb. RS 17-537)

**§ 172.040 INSPECTION.**

The Utilities Superintendent, or his duly authorized agents, shall have free access, between 8:00 a.m. and 5:00 p.m. to all parts of each premise and building to, or in which, water is delivered for the purpose of examining the pipes, fixtures, and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water. If a resident does not respond within 72 hours to a request for inspection, water service shall be disconnected until the resident has complied with said request.  
(Neb. RS 17-537)

**§ 172.041 VIOLATION.**

Any person found violating any provision of this subchapter shall be subject to a fine, not to exceed \$100. The continuation of a violation of this subchapter shall be deemed an additional crime for every 24 hours of such continued violation. In addition, the village may obtain injunctive relief and sue for damages and remediation and pursue any other remedy available to it under the laws of the State of Nebraska or other authority having jurisdiction over such matters.

**§ 172.042 DESTRUCTION OF PROPERTY.**

It shall be unlawful for any person to willfully or carelessly break, injure, or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the Water Department. No person may deposit anything in a stop box or commit any act tending to obstruct or impair the intended use of any of the abovementioned property without the written permission of the Utilities Superintendent.

**§ 172.043 TIMING OF WORK.**

All taps or plumbing work done on or to the municipal water system shall be done between the hours of 8:00 a.m. and 5:00 p.m.  
(Neb. RS 17-537)

**§ 172.044 DRILLING OR INSTALLATION OF OTHER FACILITIES WITHIN DESIGNATED DISTANCES FROM MUNICIPAL WATER SOURCES PROHIBITED.**

(A) The intent of this section is to establish control by the village over the location of future potential sources of contamination within the village, extra-territorial jurisdiction or the village's drinking water system, so as to prevent or minimize any hazard to the safety of the village's drinking water.

(B) For purposes of this section, **WATER WELL** shall mean any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for the purpose of exploring for ground water, monitoring ground water, utilizing the geothermal properties of the ground or extracting water from or injecting water into the underground water. **WATER WELL** shall not include any excavation made for obtaining or prospecting for oil, natural gas, minerals, or products mined or quarried or inserting media to repressure oil or natural gas bearing formations.

(C) It shall be unlawful to place, maintain, construct, or replace any of the following structures or conduct any of the following activities within the distance specified below from an existing municipal water well:

CATEGORY	DISTANCE
Water well	1,000 feet
Sewage lagoon	1,000 feet
Cesspool	500 feet
Dump	500 feet
Feedlot or feedlot runoff	500 feet
Corral	500 feet
Chemical storage	500 feet
Petroleum storage	500 feet
Pit toilet	500 feet
Sanitary landfill	500 feet
Septic tank	500 feet
Sewage treatment plant	500 feet
Sewage wet well	500 feet
Absorption or disposal field for waste	500 feet

(D) The construction of a water well within the corporate limits or within 1 mile of the corporate limits of the village shall not be started unless a permit approved by the Village Board of Trustees has been obtained.

(E) The governing body, may consider allowing placement of water wells, as defined by Nebraska Regulations governing public water supply systems (Title 179, NAC 2) and Nebraska Regulations governing water well construction, pump installation and water well abandonment standards (Title 178, NAC 12) as amended from time to time, closer to a municipal water well than the limitations set forth in division (C) above. Closer placement shall be allowed only under the following conditions:

(1) (a) An application must first be filed with the village showing the type of water well to be installed, the materials used, the operation of the proposed unit, and the person responsible for the actual installation of the water well. Preference, for approval, will be given to installations that do not disturb any water bearing strata.

(b) The village shall refer the application to its engineer for evaluation and report. The estimated cost of the engineer's fees must be paid at the time of filing the application. Any additional costs, which are reasonably incurred by the engineer in making their examination and report, shall be paid by the applicant, in addition to any previously paid estimated costs.

(2) (a) The governing body shall consider the engineer's report and any additional information submitted by the applicant. In reaching its decision on whether to allow the placement of a water well, as above defined, the governing body must act to prevent all sources of possible or likely water contamination.

(b) If the governing body approves the installation, it shall submit the application, together with the engineer's report, to the Department of Health of the State of Nebraska for final approval or denial.

(c) No installation shall be made without the approval of both the governing body and the Department of Health of the State of Nebraska.

(F) Water wells in existence and use, as of the effective date of this section, shall continue to be permitted unless such continued existence or use presents a hazard to the quality or quantity of the drinking water available for public use to the village's drinking water. The owner of any water well shall have the burden of establishing the existence and use of such well at the time of the effective date of this section.

(G) Any person found violating any provision of this section shall be subject to a fine, not to exceed \$100. The continuation of a violation of this section shall be deemed an additional crime for every 24 hours of such continued violation. In addition, the village may obtain injunctive relief, and sue for damages and remediation, and pursue any other remedy available to it under the laws of the State of Nebraska or other authority having jurisdiction over such matters.

(Ord. 383, passed 9-7-93)

***BACKFLOW AND BACKSIPHONAGE PREVENTION***

**§ 172.050 STATEMENT OF POLICY.**

(A) *Purpose.* The purpose of this subchapter is:

(1) To protect the public potable water supply of the village water system from contamination or pollution by containing within the consumer's internal distribution system or private water system contaminants or pollutants which could backflow through the service connection into the public potable water supply system.

(2) To promote the elimination, containment, isolation, or control of existing cross connections, actual or potential, between the public or consumer's potable water systems and nonpotable water systems, plumbing fixtures and industrial-process systems.

(B) *Application.* This subchapter shall apply to all premises serviced by the public potable water system of the village.

(C) *Policy.*

(1) This subchapter will be reasonably interpreted. It is the village's intent to recognize the varying degrees of hazard and to apply the principle that the degrees of protection shall be commensurate with the degree of hazard.

(2) The Municipal Water Department shall be primarily responsible for protection of the public potable water distribution system from contamination or pollution due to backflow or contaminants or pollutants through the water service connection. The cooperation of all consumers is required to implement and maintain the program to control cross connections. The consumer is responsible for preventing contamination of the water system within consumer's own premises.

(Ord. 375, passed 9-8-92)

**§ 172.051 DEFINITIONS.**

For purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***AIR GAP SEPARATION.*** The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle.

**APPROVED TESTER.** A person, approved by the village, qualified to make inspections; to test and repair backflow retention/cross connection control devices.

**AUTHORIZED REPRESENTATIVE.** Any person designated by the village to administer cross connection control.

**AUXILIARY WATER SUPPLY.** Any water source system, other than the public water supply, that may be available in the building or premises.

**BACKFLOW.** The flow other than the intended direction of flow, or any foreign liquids, gases, or substances into the distribution system of a public water supply.

**BACKFLOW PREVENTION DEVICE.** Any device, method, or type of construction intended to prevent backflow into a potable water system, provided backflow preventers have been tested and approved by a reputable testing laboratory.

**BACKSIPHONAGE.** The flowing back of water, or other foreign liquids, gases, or substances into the water distribution system due to negative pressure in the piping of the water distribution system.

**CONSUMER.** The owner or person in control of any premises supplied by or in any manner connected to a public water system.

**CONTAINMENT.** Protection of the public water supply by installing a cross connection control device or air gap separation on the main service line to a facility or as an installation within equipment handling potentially hazardous materials.

**CONTAMINATION.** An impairment of the quality of the water by sewage, process fluids, or other wastes to a degree which could create the actual hazard to the public health through poisoning or through spread of disease by exposure.

**CROSS CONNECTION.** Any physical link, between a potable water supply and any other substance, fluid or source, which makes possible contamination of the potable water supply due to the reversal of flow of the water in the piping or distribution system.

**HAZARD, DEGREE OF.** An evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

(1) **HAZARD, HEALTH.** Any condition, device, or practice in the water supply system and its operation which could create or may create a danger to the health and well-being of the water consumer.

(2) **HAZARD, PLUMBING.** A plumbing type cross connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air gap separation or backflow prevention device.

(3) **HAZARD, POLLUTIONAL.** An actual or potential threat to the physical properties of the water system or to the consumer's potable water system but which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be dangerous to health.

(4) **HAZARD, SYSTEM.** An actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system, or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.

**ISOLATION.** Protection of a facility service line by installing a cross connection control device or air gap separation on an individual fixture, appurtenance or system.

**POLLUTION.** The presence of any foreign substance (organic, inorganic, or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such waters for domestic use.

**PUBLIC POTABLE WATER SYSTEM.** Any publicly or privately owned water system supplying water to the general public which is satisfactory for drinking, culinary, and domestic purposes and meets the requirements of the Nebraska Department of Health and the Drinking Water Standards.

**SERVICE CONNECTION.** The terminal end of a service line from the public water system. If a meter is installed at the end of the service, then the service connection means the downstream end of the meter.

**WATER DEPARTMENT.** The Municipal Water Department of the Village of Utica, Nebraska. (Ord. 375, passed 9-8-92)

#### § 172.052 CROSS CONNECTIONS PROHIBITED.

(A) No water service connection shall be installed or maintained to any premises where actual or potential cross connections to the public water supply system may exist unless such actual or potential cross connections are abated or controlled to the satisfaction of the village or its authorized representative.

(B) No connection shall be installed or maintained whereby an auxiliary water supply may enter a public water supply system.

(C) No water service connection shall be installed or maintained to any premises in which the plumbing system, facilities, and fixtures have not been constructed and installed using acceptable plumbing practices, considered by the Municipal Water Department as necessary for the protection of health and safety, and the National Plumbing Code.

(Ord. 375, passed 9-8-92)

#### **§ 172.053 SURVEY AND INVESTIGATIONS.**

(A) The consumer's premises shall be open at all reasonable times to the village or its authorized representative, for the conduct of surveys and investigations of water use practices within the consumer's premises to determine whether there are actual or potential cross connections in the consumers water system.

(B) On request by the village or its authorized representative, the consumer shall furnish requested information on water use practices within his premises and in the consumer's water system.

(C) On request by the village or its authorized representative, the consumer shall conduct periodic surveys of water use practices on the premises of the consumer's water system to determine whether there are actual or potential cross connections. The consumer shall provide the survey results to the village or its authorized representative.

(Ord. 375, passed 9-8-92)

#### **§ 172.054 WHERE PROTECTION IS REQUIRED.**

(A) An approved backflow prevention device shall be installed between the service connection and the point of potential backflow into a consumer's water supply system when in the judgment of the village or authorized representative a health, plumbing, pollution or system hazard exists.

(B) An approved air gap separation or reduced pressure principle backflow prevention device shall be installed at the service connection or within any premises where, in the judgment of the Municipal Water Department, the nature and extent of activities on the premises, or the materials used in connection with the activities, or materials stored on the premises, would present an immediate and dangerous hazard to health should a cross connection occur, even though such cross connection may not exist at the time the backflow prevention device is required to be installed. This includes but is not limited to the following situations:

(1) Premises having an auxiliary water supply;

(2) Premises having internal cross connections that are not correctable, or intricate plumbing arrangements which made it impracticable to ascertain whether or not cross connections exist;



(3) Premises where entry is restricted so that inspections for cross connections cannot be made with sufficient frequency or at sufficiently short notice to assure the cross connections do not exist;

(4) Premises having a repeated history of cross connections being established or reestablished;

(5) Premises, which due to the nature of the enterprise therein, are subject to recurring modification or expansion;

(6) Premises on which any substance is handled under pressure so as to permit entry into the public water supply system, or where a cross connection could reasonably be expected to occur. This shall include the handling of process waters and cooling waters;

(7) Premises where toxic or hazardous materials are handled.

(C) The following types of facilities fall into one or more of the categories or premises where an approved air gap separation or reduced pressure principle backflow prevention device may be required by the village or its authorized representative or the Nebraska Department of Health to protect the public water supply and must be installed at these facilities unless all hazardous or potentially hazardous conditions have been eliminated or corrected by other methods to the satisfaction of the village or its authorized representative and the Nebraska Department of Health:

(1) Agricultural chemical facilities;

(2) Auxiliary water systems, wells;

(3) Premises having water recirculating systems as used for boilers or cooling systems;

(4) Bulk water loading facilities;

(5) Car washes, automobile servicing facilities;

(6) Chill water systems;

(7) Feedlots;

(8) Fire protection systems;

(9) Hazardous waste storage and disposal sites;

(10) Irrigation and lawn sprinkler systems;

(11) Laundries and dry cleaning;

(12) Petroleum processing or storage plants;

(13) Beauty salons;

(14) Schools;

(15) Sewage pumping stations;

(16) Livestock watering;

(17) Nursing homes;

(18) Dental offices;

(19) Mortuaries;

(20) Hospitals;

(21) Other commercial or industrial facilities which may constitute potential cross connection.  
(Ord. 375, passed 9-8-92)

#### **§ 172.055 TYPE OF PROTECTION REQUIRED.**

The type of protection required by this subchapter shall depend on the degree of hazard that exists, as follows:

(A) An approved air gap separation shall be installed where the potable water system may be contaminated with substances that could cause a severe health hazard.

(B) An approved air gap separation or an approved reduced pressure principle backflow prevention device shall be installed where the public potable water system may be contaminated with a substance that could cause a health hazard.

(C) An approved air gap separation or an approved reduced pressure principle backflow prevention device or an approved double check valve assembly shall be installed where the public potable water system may be polluted with substances that could cause a pollutional hazard not dangerous to health.  
(Ord. 375, passed 9-8-92)

**§ 172.056 BACKFLOW PREVENTION DEVICES.**

(A) Any approved backflow prevention device required by this subchapter shall be of a model or construction approved by the village or its authorized representative and the Nebraska Department of Health.

(B) Air gap separation to be approved shall be at twice the diameter of the supply pipe, measured vertically above the top rim of the vessel, but in no case less than 1 inch.

(C) Double check valve assemblies or reduced pressure principle backflow prevention devices shall appear on the current list of approved backflow prevention devices established by the Nebraska Department of Health, unless the device was installed at the time this subchapter was passed and complies with required inspection and maintenance.

(Ord. 375, passed 9-8-92)

**§ 172.057 INSTALLATION.**

(A) Backflow prevention devices required by this subchapter shall be installed at a location in a manner approved by the village or its authorized agent. All devices shall be installed at the expense of the consumer, unless the village or its authorized representative agrees otherwise.

(B) Backflow prevention devices installed at the service connection shall be located on the consumer's side of the water meter (if one is installed) or the corporation stop, as close to the meter or corporation stop as is reasonably practical, and prior to any other connection.

(C) Backflow prevention devices shall be conveniently accessible for maintenance and testing, protected from freezing, and where no part of the device will be submerged or subject to flooding by any fluid. All devices shall be installed according to manufacturer's recommendations.

(Ord. 375, passed 9-8-92)

**§ 172.058 TESTING.**

Backflow and backsiphonage prevention devices designed to be tested shall be tested for proper operation annually or when necessary in the opinion of the village or its authorized representative. Actual testing shall be at the expense of the consumer, unless the village or its authorized representative agrees otherwise. Any required maintenance or repairs shall be at the expense of the consumer and subject to the approval of the village. If testing shall require entry into the premises, the village's authorized representative shall give notice setting forth a proposed date and time to the consumer at 10

working days in advance by first class mail, return receipt requested. If the consumer cannot make the premises available for inspection on that date and time, the consumer shall contact the village's authorized representative to arrange another date and time.  
(Ord. 375, passed 9-8-92)

#### **§ 172.059 AUTHORIZED REPRESENTATIVE; AUTHORITY.**

The authorized representative shall have the authority to issue any order consistent with the provisions of this subchapter in order to protect the public health and safety. Any order of the authorized representative shall be in writing and shall clearly state the nature of the order, compliance requirements, and set a reasonable date by which compliance must be met. All orders will be mailed to the consumer by first class mail, return receipt requested.  
(Ord. 375, passed 9-8-92)

#### **§ 172.060 APPEALS.**

(A) In the event that it is claimed that the true intent and meaning of this subchapter has been wrongfully interpreted by the authorized representative; that the time allowed for compliance with any order of the authorized representative is too short; or that conditions peculiar to a particular premises make it unreasonably difficult to meet the literal requirements prescribed by this subchapter, the owner may file a written notice of appeal with the Municipal Clerk within 10 days after the decision or order of the authorized representative has been made. The governing body shall hear all appeals and shall have the power and authority, when appealed to, to modify the decision or order of the authorized representative. Such a decision shall be final, subject only to any remedy which the aggrieved party may have at law or equity.

(B) Appeals shall be in writing and shall state the reason for the appeal.  
(Ord. 375, passed 9-8-92)

#### **§ 172.061 VIOLATION AND PENALTIES.**

(A) The village or its authorized representative shall deny or discontinue the water service to any premises or any consumer wherein any backflow prevention device required by this subchapter is not installed, tested and maintained in a manner acceptable to the village or its authorized representative, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross connection exists.

(B) Water service to such premises shall not be restored until the consumer is in compliance with cross connection regulations in this subchapter to the satisfaction of the village or its authorized representative.

(Ord. 375, passed 9-8-92)

#### **§ 172.062 LIABILITY CLAIMS.**

The authorized representative shall be relieved from personal liability. The village shall hold harmless the authorized representative when acting in good faith and without malice, from all personal liability for any damage that may occur to any person or property as a result of any act required or authorized by this title, or by reason of any act or omission of the authorized representative in the discharge of his duties hereunder. Any suit brought carrying out the provisions of the title shall be defended by the village, or the village's insurance carrier, if any, through final determination of such proceeding.

(Ord. 375, passed 9-8-92)

### ***SEWERS***

#### **§ 172.070 SEWER DEPARTMENT; OPERATION AND FUNDING.**

The municipality owns and operates the municipal sewer system through the Utilities Superintendent. The governing body, for the purpose of defraying the cost of the management and maintenance of the municipal sewer system may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Sewer Maintenance Fund. The Utilities Superintendent shall have the direct management and control of the Sewer Department and shall faithfully carry out the duties of his office. He shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Department subject to the supervision and review of the governing body.

(Neb. RS 17-149, 17-925.01)

#### **§ 172.071 SEWER MAINTENANCE FUND.**

The operation, maintenance and replacement (OM&R) portion of the total sewer user charges shall be deposited in a non-lapsing Sewer Maintenance Fund, or set of funds, and the revenues so deposited will be used only for the purposes of defraying the OM&R costs of the treatment works. Funds

transferred from other revenue sources to meet temporary shortages in the OM&R accounts shall be refunded following an appropriate adjustment in the user charges for the OM&R the Sewer Maintenance Fund will have a minimum of 2 primary accounts:

(A) An O&M account with provision for carry-over of the fiscal year end balance to meet the over all O&M costs in the subsequent fiscal year;

(B) A non-lapsing sinking fund for replacement costs which accrues funds through deposits made quarterly from OM&R use charge revenues. The deposits shall provide adequate revenues to meet the replacement needs of the treatment works over its service life and shall be used for no other purpose. For purposes of maintaining the fund on a perpetual basis, the municipality shall budget a sum of money not less than 20% of its annual projected operation and maintenance budget for the sewer treatment works. Fiscal year-end balances in the non-lapsing sinking fund will be carried over to the same fund in the subsequent year.

#### § 172.072 DEFINITIONS.

For purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***BIOLOGICAL OXYGEN DEMAND.*** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20° C., expressed in parts per million by weight.

***BUILDING or HOUSE SEWER.*** That part of a house or building drainage system extending from the house or building drain to its connection with the main sewer.

***BUILDING or HOUSE DRAIN.*** That part of the lowest horizontal piping of a house or building drainage system which receives the discharge from soil, waste, or other drainage pipes inside the walls of any building or house.

***GARBAGE.*** Solid wastes from the preparation of cooking and dispensing of food and produce.

***LOCAL VENTILATING PIPE.*** Any pipe through which foul air is removed from a room or fixture.

***pH.*** The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

***PLUMBING FIXTURES.*** Receptacles intended to receive and discharge water liquid or water-carried wastes into the sewer system with which they are connected.

***PROPERLY SHREDDED.*** Shredding to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle larger than ½ inch in diameter.

***SANITARY SEWER.*** A sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted,

***SEWAGE.*** A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments together with such ground, surface, and storm waters as may be present.

***SEWER SYSTEM.*** All facilities for collecting, pumping, treating, and disposing of sewage.

***SOIL PIPE.*** Any pipe which conveys the discharge of water closets with or without the discharge from other fixtures to the house or building drain.

***STORM SEWER.*** A sewer which carries storm and surface drainage, but excludes sewage and polluted industrial wastes.

***SUSPENDED SOLIDS.*** Solids that either float on the surface of, or are in immersion in water, sewage, or other liquids, and are removable by filtering.

***TRAP.*** A fitting or device so constructed as to prevent the passage of air or gas through a pipe without materially affecting the flow of sewage or waste through it.

***TRAP SEAL.*** The vertical distance between the crown weir and the dip of the trap.

***VENT PIPE.*** Any pipe provided to ventilate a house or building drainage system and to prevent trap siphonage and back pressure.

***WASTE PIPE.*** Any pipe which receives the discharge of any fixture, except water closets, and conveys the same to the house drain, soil pipe, or waste stack.

#### **§ 172.073 SEWER CONTRACT.**

The municipality through the Sewer Department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The municipality may also furnish sewer service to persons whose premises are situated outside the corporate limits of the municipality, as and when, according to law, the governing body may see fit to do so. The rules and regulations hereinafter named in this subchapter shall be considered a part of every application hereafter made for sewer service and shall be considered a part of the contract,

between every customer now or hereafter served. Without further formality, the making of the application on the part of any applicant or the use of sewer service by present customers thereof shall constitute a contract between the customer and the municipality to which said contract both parties are bound. If the customer shall violate any of the provisions of said contract or any reasonable rules and regulations that the governing body may hereafter adopt, the Utilities Superintendent, or his agent, may cut off or disconnect the sewer service from the building or premise of such violation. No further connection for sewer service to said building or premise shall again be made save or except by order of the Superintendent or his agent.

#### **§ 172.074 MANDATORY HOOK-UP.**

Upon written notice by the Utilities Superintendent the property owner, occupant, or lessee of any premise shall without delay cause the said building to be connected with the sewer system and equipped with inside sewerage facilities. Every building hereafter erected shall be connected with the sewer system at the time of its construction. In the event that any property owner, occupant, or lessee shall neglect, fail, or refuse, within a period of 10 days after notice has been given to him to do so by registered mail or by publication in a newspaper in or of general circulation in the municipality, to make such connection, the governing body shall have the power to cause the same to be done, to assess the cost thereof against the property, and to collect the assessment thus made in the manner provided for collection of other special taxes and assessments.

#### **§ 172.075 DIRECT CONNECTIONS.**

Each and every building must make a direct connection with the main sewer line. Under no circumstances will 2 or more houses be allowed to make such connections through 1 pipe; provided that if the other building is directly behind a dwelling already served with the sewer service and the owner of the premise receives permission in writing from the governing body, the second building may be hooked up with the same sewer line to which the dwelling is hooked up.

#### **§ 172.076 SERVICE CONTRACTS.**

Contracts for sewer service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any customer shall move from the premise where service is furnished, or if the said premise is destroyed by fire or other casualty, he shall at once inform the Utilities Superintendent who shall cause the sewer service to be shut off from the said premise. If the customer should fail to give notice, he shall be charged for that period of time until the official in charge of sewers is otherwise advised of such circumstances.



**§ 172.077 INSTALLATION PROCEDURE.**

In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. After the house sewer is laid, the public ways and property shall be restored to good condition. If the excavation in the public ways and property is left open or unfinished for a period of 24 hours or more, the Utilities Superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the owner, occupant, or lessee of the property. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for such installation prescribed by the Utilities Superintendent; provided, that the said rules, regulations, and specifications, have been reviewed and approved by the governing body.

**§ 172.078 INSTALLATION EXPENSE.**

The cost of providing sewer service to any building shall be paid by the customer. The customer shall be required to pay the sewer connection charge which shall be set by resolution of the governing body and payable to the Municipal Clerk. It shall be the responsibility of the customer to pay the cost of installation and materials from the main to the building. Pipe and other appurtenances shall be of such quality and type as may be approved by the Utilities Superintendent.

**§ 172.079 REPAIRS AND MAINTENANCE.**

The municipality shall repair or replace, as the case may be, all pipe constituting major sewer mains, except sewer mains to non-residents which shall be the responsibility of the non-residents. It shall be the responsibility of the customer to repair or replace all other sewer pipe and appurtenances from the main to and including the customer's property. All replacements and repairs made by the customer shall be done in the manner and with the materials approved by the Utilities Superintendent; provided, that the same have been previously approved by the governing body.

**§ 172.080 CLASSIFICATION.**

The governing body may classify for the purpose of rental fees the customers of the Sewer Department; provided, that such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers.

(Neb. RS 17-925.02)

**§ 172.081 FEES AND COLLECTIONS.**

The governing body has the power and authority to fix the rates to be paid by the customers of the Sewer Department. All such fees shall be on file for public inspection at the office of the Municipal Clerk. The Municipal Clerk shall have the duty of collecting the rental fees of the customers of the Sewer Department monthly. If a customer shall for any reason order the service discontinued or shall vacate the premise, the amount due under the terms of this subchapter, together with any rental fees and charges in arrears, shall be considered as a delinquent sewer rental which is hereby declared to be a lien upon the premise or real estate for which or from which the sewer was used or supplied, and upon the refusal of the customer to pay the said delinquent sewer rental, it shall be collected by being placed upon the assessment roll and tax books for collection.

**§ 172.082 DELINQUENT PAYMENTS.**

The charges prescribed by this subchapter shall become due and payable in advance by or before the tenth day of January, April, July, and October. After the tenth day, the bills shall be considered to be delinquent and shall thereafter bear interest at the rate set by resolution of the governing body. In the event that the billing remains unpaid on the first day of the month subsequent to the month for billing, the sewer service shall be discontinued until the delinquent payment including any penalty charge is received by the Municipal Clerk.

**§ 172.083 PLUMBER'S LIABILITY.**

The licensed plumber or drainlayer who connects with the public sewer shall be held responsible for any damage he may cause to the sewers or the public ways and property. He shall restore to the complete satisfaction of the Utilities Superintendent all streets that he has excavated and make good any settlements of the ground or pavement caused by his excavations.

**§ 172.084 LICENSED PLUMBER.**

It shall be unlawful for any person, firm, or corporation to engage in or conduct the business of sewer connection and house drainage, excavate any trenches or sewer pipe, open, uncover, or in any manner make connection with or lay any sewer drain, or attach to, modify, or repair any appurtenances without complying with the rules and regulations of the Utilities Superintendent; provided, that nothing herein shall be construed to apply to persons, firms, or corporations under special contract with the municipality for the construction, extension, or repair of the municipal sewer system.

**§ 172.085 MUNICIPAL LIABILITY.**

The municipality shall not be liable for any damage that may arise out of the operation of the municipal sewer system whether such damage arises out of unforeseeable circumstances or due to the negligence or neglect of any of the employees of the municipality. All customers of the municipal sewer system hereby agree that in using the facilities of the sewer system, they agree to assume the risk of the said damage.

**§ 172.086 UNLAWFUL USE.**

It shall be unlawful for any person to discharge, or cause to be discharged, any storm water, surface water, ground water, roof runoff, surface drainage, or unpolluted industrial process waters into the sanitary sewer. Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes into the municipal sewer system:

- (A) Liquids or vapors having a temperature higher than 150° F;
- (B) Water or waste which may contain more than 100 parts per million by weight of fat, oil or grease;
- (C) Gasoline, benzene, naphtha, fuel oil, other flammable or explosive liquid, solid, or gas;
- (D) Garbage that has not been properly shredded;
- (E) Sand, mud, metal, rags, paper, or other solid or viscous substance capable of causing obstruction to the flow an the sewer system;
- (F) Toxic or poisonous substances in sufficient quantity to interfere with or injure the sewage treatment process, constitute a hazard to humans, animals, or fish, or create any hazard in the receiving area of the sewage treatment plant;
- (G) Suspended solids of such character and quantity that unusual attention or expense is required to handle such materials;
- (H) Waters or wastes having a pH lower than 5.5 or higher than 9.0 or having other corrosive properties capable of causing damage to the structures, equipment, and personnel of the Sewer Department;
- (I) Any noxious or malodorous gas or substance capable of creating a public nuisance.

**§ 172.087 SPECIAL EQUIPMENT.**

In the event a customer of the Sewer Department discharges an unusually large amount of waste daily, an unusually large amount of grease or oil, or waste with an unusually high biochemical oxygen demand the chief sewer official may require the said customer to install interceptors or other preliminary treatment equipment to reduce the objectionable characteristics of the waste to within such maximum limits as he shall prescribe subject to the review of the governing body. All preliminary treatment facilities shall be purchased and maintained continuously in satisfactory and efficient operation at the customer's expense. Nothing herein shall be construed to prohibit a special agreement or arrangement between the governing body and an industrial concern whereby an industrial waste of unusual strength or character may be accepted by the municipality for treatment subject to additional rental fees or other charges.

**§ 172.088 MANHOLES.**

Entrance into a manhole or opening for any purpose except by authorized persons is hereby prohibited. It shall be unlawful to deposit or cause to be deposited in any receptacle connected with the sewer system any substance which is not the usual and natural waste carried by the sewer system.

**§ 172.089 INSPECTIONS.**

(A) The Utilities Superintendent shall have free access between the hours of 8:00 a.m. and 5:00 p.m. to all parts of each premise and building which is connected with the sewer system to ascertain whether there is any disrepair or violations of this subchapter therein.

(B) *Generally.* The Utilities Superintendent and other duly authorized employees of the municipality bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing system in accordance with the provisions of this subchapter. The Utilities Superintendent or his or her representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(C) *Injury liability.* While performing the necessary work on private properties referred to in § 172.093(B), the Utilities Superintendent or duly authorized employees of the municipality shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the municipal employees and the municipality shall indemnify the company against loss or damage to its property by municipal employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the guaging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 172.096.

(D) *Easements.* The Utilities Superintendent and other duly authorized employees of the municipality bearing proper credentials and identification shall be permitted to enter all private properties through which the municipality holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

#### **§ 172.090 UNLAWFUL DEPOSIT OF WASTES.**

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the municipality or within 2 miles of the corporate limits thereof, or in any area under the jurisdiction of the municipality, any human or animal excrement, garbage, or other objectionable waste.

#### **§ 172.091 UNLAWFUL DISCHARGE OF UNTREATED SEWAGE.**

It shall be unlawful to discharge to any natural outlet within the municipality, or within 2 miles of the corporate limits thereof, or in any area under the jurisdiction of the municipality, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this subchapter.

#### **§ 172.092 CESSPOOLS, PRIVIES AND SEPTIC TANKS.**

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

#### **§ 172.093 BUILDING SEWER INSTALLATION.**

##### *(A) Construction codes.*

(1) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the municipality. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(2) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(3) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the municipality, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight, and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

(B) *Unlawful connection.* No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the Superintendent for purposes of disposal of polluted surface drainage; provided, that if responsibility can be determined, the party responsible for disposal of polluted surface drainage into the public sanitary sewer shall pay a user charge equivalent to the cost of treating the polluted drainage.

(C) *Inspections.* The applicant for the building sewer permit shall notify the Utilities Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Utilities Superintendent or his or her representative.

(D) *Excavations.* All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the municipality.

#### **§ 172.094 PROHIBITED DISCHARGES; STORM WATER, SURFACE WATER, GROUNDWATER, COOLING WATER AND PROCESS WATER.**

(A) No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial waters to any sanitary sewer.

(B) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Utilities Superintendent. Industrial cooling water or unpolluted process water may be discharged, on approval of the Utilities Superintendent, to a storm sewer, combined sewer, or natural outlet. The

contributor of any identifiable discharge of polluted water to the sanitary sewer system shall be held responsible for reimbursing the municipality for such costs. The costs shall be determined by the Utilities Superintendent with the approval of the governing body.

**§ 172.095 HAZARDOUS AND PROHIBITED DISCHARGES; FLAMMABLE, TOXIC, CORROSIVE AND OBSTRUCTIVE SUBSTANCES; PRELIMINARY TREATMENT.**

(A) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

(2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.

(3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, and the like, either whole or ground by garbage grinders.

(5) Any waters or wastes having:

(a) A 5-day BOD greater than 300 parts per million by weight;

(b) Containing more than 350 parts per million by weight of suspended solids; or

(c) A chlorine requirement greater than demanded by normal sewage as evaluated by the municipality's consulting engineer shall be subject to the review of the Utilities Superintendent.

(B) Where necessary in the opinion of the Utilities Superintendent, the owner shall provide, at his or her expense, such preliminary treatment as may be necessary to:

(1) Reduce the biochemical oxygen demand to 300 parts per million by weight;

- (2) Reduce the suspended solids to 350 parts per million by weight;
- (3) Control the quantities and rates of discharge of such waters or wastes; or
- (4) Reduce the chlorine requirement to conform with normal sewage.

(C) Plans, specifications, and other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Utilities Superintendent and no construction of such facilities shall be commenced until the approvals are obtained in writing.

**§ 172.096 HAZARDOUS AND PROHIBITED DISCHARGES; SPECIFIC PROHIBITIONS AS DETERMINED BY UTILITIES SUPERINTENDENT.**

(A) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Utilities Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance.

(B) In forming his or her opinion as to the acceptability of these wastes, the Utilities Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- (1) Any liquid or vapor having a temperature higher than 150°F (65°C);
- (2) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150°F (0 and 65°C);
- (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor  $\frac{3}{4}$  horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Utilities Superintendent;
- (4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not;
- (5) Any water or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Utilities Superintendent for such materials;



(6) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the Utilities Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters;

(7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Commissioner in compliance with applicable state or federal regulations.

(8) Any waters of wastes having a pH in excess of 9.5;

(9) Materials which exert or cause:

(a) Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids, (such as but not limited to, sodium chloride or sodium sulfate);

(b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);

(c) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works; and/or

(d) Unusual volume of flow or concentration of wastes constituting slugs;

(10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

**§ 172.097 HAZARDOUS AND PROHIBITED DISCHARGES; REJECTION, PRETREATMENT, CONTROL OF DISCHARGE RATE OR USE FEE SURCHARGE.**

(A) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in § 172.076, and which in the judgment of the Utilities Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the Utilities Superintendent may:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for discharge to the public sewers;

(3) Require control over the quantities and rates of discharge; and/or

(4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of § 172.102.

(B) If the Utilities Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Utilities Superintendent and subject to the requirements of all applicable codes, ordinances and laws.

#### **§ 172.098 GREASE, OIL AND SAND INTERCEPTORS.**

Grease, oil, and sand interceptors shall be provided when, in the opinion of the Utilities Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Utilities Superintendent and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal which are subject to review by the Utilities Superintendent. Any removal and hauling of the collected materials not performed by owner(s) personnel must be performed by currently licensed waste disposal firms.

#### **§ 172.099 PRELIMINARY TREATMENT OR FLOW-EQUALIZING FACILITIES; MAINTENANCE BY OWNER.**

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

#### **§ 172.100 CONTROL MANHOLES/SAMPLING STATIONS.**

(A) *When required; installation and maintenance.* When required by the Utilities Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Utilities Superintendent. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.

(B) *Method.* All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this subchapter, shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

#### **§ 172.101 SANITARY SUPPLY SYSTEM; DESTRUCTION OF PROPERTY.**

No person or persons shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the wastewater facilities. Any person or persons violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

#### **§ 172.102 INDUSTRIAL WASTES; SPECIAL EXCEPTIONS PERMITTED; USE FEE SURCHARGE.**

No statement contained in this subchapter shall be construed as preventing any special agreement or arrangement between the municipality and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the municipality for treatment, subject to payment therefor, by the industrial concern.

#### **§ 172.103 VIOLATION; NOTICE AND LIABILITY.**

(A) Any person found to be violating any provision of this subchapter except § 172.098 shall be served by the municipality with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(B) Any person violating any of the provisions of this subchapter shall become liable to the municipality for any expense, loss, or damage occasioned the municipality by reason of such violation.



## CHAPTER 173: TRAFFIC CODE

Section

### *General Provisions*

- 173.01 Engine braking
- 173.02 All-terrain and utility-type vehicles
- 173.03 Golf carts
- 173.04 Speed limits

### *Parking*

- 173.10 Trailers
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- 173.17 Emergency vehicles
- 173.18 Removal of illegally parked vehicles

## **GENERAL PROVISIONS**

### **§ 173.01 ENGINE BRAKING.**

It shall be unlawful for any person to make, or cause to be made, loud or disturbing noises with any mechanical devices operated by compressed air and used for purposes of assisting braking, also referred to as engine braking within the village limits of the Village of Utica. Signs shall be posted on each of the highways entering the village limits giving notice that engine braking is prohibited.

(Ord. 707, passed 11-23-08)

**§ 173.02 ALL-TERRAIN AND UTILITY-TYPE VEHICLES.**

(A) *Definitions.* As used in this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ALL-TERRAIN VEHICLE.*** Any motorized off-highway vehicle which:

- (a) Is 50 inches or less in width;
- (b) Has a dry weight of 900 pounds or less;
- (c) Travels on 3 or more low pressure tires;
- (d) Is designed for operator use only with no passengers;
- (e) Has a seat or saddle designed to be straddled by the operator; and
- (f) Has handlebars or any other steering assembly for steering control.

***UTILITY-TYPE VEHICLE.***

- (a) Any motorized off-highway device which:
  1. Is not less than 48 inches nor more than 74 inches in width;
  2. Is not more than 135 inches, including the bumper, in length;
  3. Has a dry weight of not less than 900 pounds nor more than 2,000 pounds;
  4. Travels on 4 or more low-pressure tires; and
  5. Is equipped with a steering wheel and bench or bucket-type seating designed for at least 2 people to sit side-by-side.

- (b) ***UTILITY-TYPE VEHICLE*** does not include golf carts or low-speed vehicles.

(B) *Registration.* All-terrain vehicles and utility-type vehicles which have been modified to include additional equipment not required by Neb. RS 60-6,357 and 60-6,358 shall not be required to be registered under the Motor Vehicle Registration Act.

(C) *Operation and use; hours and requirements.*

(1) The operation of all-terrain and utility-type vehicles upon the public streets and right-of-ways within the village limits is hereby authorized. Any person operating an all-terrain vehicle or a utility-type vehicle shall have a valid Class O operator's license as provided in Neb. RS 60-4,126, shall have liability insurance coverage for the all-terrain vehicle or a utility-type vehicle while operating the all-terrain vehicle or utility-type vehicle on a highway, and shall not operate such vehicle at a speed in excess of 30 miles per hour. The person operating the all-terrain vehicle or utility-type vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within 5 days of such a request. When operating an all-terrain vehicle or a utility-type vehicle the headlight and taillight of the vehicle shall be on and the vehicle shall be equipped with a bicycle safety flag which extends not less than 5 feet above ground attached to the rear of such vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than 30 square inches and shall be day-glow in color. The all-terrain vehicle or a utility-type vehicle may be operated only between the hours of sunrise and sunset. The operator of the all-terrain or utility-type vehicle shall hold a Class O drivers license valid within the State of Nebraska and be at least 19 years of age.

(2) All-terrain and utility-type vehicles operated as above permitted shall at all times be subject to the Nebraska Rules of the Road which are applicable to the operation and use of motor vehicles. No all-terrain or utility-type vehicles shall cross a controlled-access highway with 2 or more marked driving lanes unless:

(a) The crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

(b) The all-terrain or utility-type vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway;

(c) The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard; and

(d) In crossing the highway, the crossing is made only at an intersection of such highway with another street or highway. See Neb. RS 60-6,356 et seq.

(3) All-terrain and utility-type vehicles may be operated without complying with this section on highways in parades which have been authorized by the State of Nebraska or any department, board, commission or political subdivision of the state.

(Ord. 713, passed 5-3-10; Am. Ord. 716, passed 8-2-10)

**§ 173.03 GOLF CARTS.**

(A) The operation of golf carts upon the public streets and right-of-ways within the village limits is hereby authorized. Golf carts shall be operated only between the hours of sunrise to sunset. Golf cart operation shall further be allowed only by use of the most direct route between the intended destination of the driver of the golf cart and the place of permanent storage of the golf cart, and no such operation for any other purpose of transportation shall be allowed. The operator of the golf cart shall be at least 19 years of age and hold a drivers license valid within the State of Nebraska.

(B) It shall be unlawful for any golf cart to be operated in the above manner without a slow moving vehicle emblem in compliance with Neb. RS 60-6,241 attached to the rear of the golf cart, and further equipped with a bicycle safety flag attached to the golf cart extending at least 5 feet above ground level. Any golf cart operating outside the permitted hours of sunrise to sunset shall be equipped with headlights and taillights in compliance with Neb. RS 60-6,219.

(C) All golf carts operated as above permitted shall at all times be subject to the Nebraska Rules of the Road which are applicable to the operation and use of motor vehicles. No golf cart shall be permitted to operate within the marked driving lanes of any controlled access highway. No golf cart shall cross a controlled-access highway with 2 or more marked driving lanes unless:

(1) The crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

(2) The golf cart is brought to a complete stop before crossing the shoulder or roadway of the highway;

(3) The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard; and

(4) In crossing the highway, the crossing is made only at an intersection of such highway with another street or highway. See Neb. RS 60-678 et seq.  
(Ord. 715, passed 8-2-10)

**§ 173.04 SPEED LIMITS.**

(A) *Speed limit; Centennial Avenue.* The speed limit governing the speed of all vehicular traffic on Centennial Avenue shall be 40 miles per hour.

(B) *Designation of zone.* The 40-mile per hour speed zone on Centennial Avenue shall commence where Centennial Avenue enters Highway 34 on the north and end on the south on the village limits.  
(Ord. 311, passed 6-2-86)



***PARKING*****§ 173.10 TRAILERS.**

No commercial trailers shall be parked or left on a public street unattached from the tractor component of a tractor-trailer freight vehicle. No person shall park any other trailer, including but not limited to trailers used for camping or any other recreational purposes, on any public street within the village limits for any period of time longer than is reasonably necessary to load or unload the contents of said trailer.

(Ord. 07-704, passed 10-1-07)

**§ 173.11 PARKING VIOLATIONS BUREAU.**

(A) *Created.* There is hereby created a Parking Violations Bureau to handle parking violations, which Bureau shall be under the direction and supervision of the Municipal Clerk. The Parking Violations Bureau shall collect and account for all money paid in accordance with this subchapter and shall issue receipts therefor.

(Neb. RS 18-1729)

(B) *Issuing citations.* It shall be the duty of any authorized law enforcement officer to issue a citation which shall be processed originally through the Parking Violations Bureau upon finding:

(1) Any motor vehicle in violation of a motor vehicle parking ordinance or of a duly established parking regulation of the municipality;

(2) Any motor vehicle stopped or parking in such manner as to interfere with the lawful use of the street; or

(3) Any motor vehicle stopped or parked in violation of this subchapter.

(C) *Duties.*

(1) It shall be the duty of the Parking Violations Bureau to accept from such violator as are permitted and desire to plead guilty in accordance with the procedure hereinafter set forth, the penalties and fees herein designated and to issue receipts therefor.

(2) Violators of the motor vehicle traffic regulations shall be given notice in the form of an official police tag attached to the offending motor vehicle, which notice shall require such violator to appear forthwith at the Parking Violations Bureau. Any violator appearing at the Bureau within 5 days after the date the official police tag is issued and desiring to plead guilty and waive court appearance

shall sign a written plea of guilty and waiver of court appearance and shall pay to the Bureau the sum of \$5 as liquidated damages to the village for improper use of its streets by virtue of such parking violations. If any violator shall fail to appear at the Parking Violations Bureau within 5 days after the date the official police tag is issued, the Parking Violations Bureau shall send to the owner of the motor vehicle to which the official police tag was affixed, a written notice informing him of the violation and warning him that he will be held responsible for, and as, the offender, and that in the event the violator or owner of the vehicle to which the official police tag was attached fails to appear at the Parking Violation Bureau within 5 days after the date of issuance of such written notice, a complaint and warrant of arrest will be issued, Any violator appearing at the Parking Violations Bureau within 5 days after the date of said written notice and desiring to plead guilty and waive court appearance, shall sign a written plea of guilty and waiver of court appearance and shall pay to the Bureau the sum of \$10.

(D) *Recoups.*

(1) The Parking Violations Bureau shall keep a record of all violators, showing the name, the time, and the date of violations, disposition, and penalty and fees collected. All penalties and damages collected by said Bureau shall be deposited with the Municipal Treasurer to the credit of the General Fund.

(2) A form of waiver of appearance and plea may be required to be signed and deposited with the penalty and fees collected from each violator.

(3) If it appears from the records of said Parking Violations Bureau that any person shall have received 4 parking violation tickets within a period of 6 months, then the Parking Violations Bureau shall have no further jurisdiction, and such additional parking violations shall constitute an offense as provided by the provisions of this code, and an appropriate complaint shall be filed therefor with the Seward County Court.

(Ord. 629, passed 12-2-02)

**§ 173.12 UNATTENDED VEHICLES.**

No person having control or charge of a motor vehicle shall allow such vehicle to stand unattended without first effectively setting the brakes thereon and, when standing upon any grade, without turning the front wheels of such vehicle to the curb or side of the street. The driver of a motor vehicle, when traveling upon a down grade upon any street, shall not coast with the gears of the vehicle in neutral.

(Neb. RS 39-674)

**§ 173.13 PARKING; GENERALLY.**

No person shall park any vehicle, or approach the curb with a vehicle, except when headed in the direction of the traffic. Vehicles, when parked, shall stand parallel with and adjacent to the curb or edge of the roadway. In such manner as to have both right wheels within 12 inches of the curb or edge of the roadway, and so as to leave at least 4 feet between the vehicle so parked and any other parked vehicles, except where the governing body designates that vehicles shall be parked at an angle so as to have the front right wheel at the curb or edge of the roadway. Where stalls are designated either on the curb or pavement, vehicles shall be parked within such stalls.

(Neb. RS 39-673, 39-697)

**§ 173.14 OBSTRUCTING ALLEY.**

No vehicle shall have any portion thereof projecting into any alley entrance.

(Neb. RS 39-697)

**§ 173.15 UNLOADING FREIGHT VEHICLES.**

Vehicles of an overall length of less than 20 feet, including load, while discharging or loading freight may back to the curb, but shall occupy as little of the street as possible.

(Neb. RS 39-697)

**§ 173.16 TIME LIMIT.**

The governing body may, by resolution, entirely prohibit or fix a time limit for the parking and stopping of vehicles on any street, streets, or district designated by such resolution, and the parking or stopping, of any vehicle in any such street, streets or district for a period of time longer than fixed in such resolution shall constitute a violation of this subchapter.

(Neb. RS 39-697)

**§ 173.17 EMERGENCY VEHICLES.**

The provisions of this subchapter regulating the movement, parking and standing of vehicles shall not apply to authorized emergency vehicles while the driver of such vehicle is operating the same in an emergency in the necessary performance of public duties.

(Neb. RS 39-608)

**§ 173.18 REMOVAL OF ILLEGALLY PARKED VEHICLES.**

(A) Whenever any police officer shall find a vehicle standing upon a street or alley in violation of any of the provisions of this subchapter, such individual may remove or have such vehicle removed, or require the driver or other person in charge of the vehicle to move such vehicle, to a position off the roadway of such street or alley or from such street or alley.

(B) The owner or other person lawfully entitled to the possession of any vehicle towed or stored shall be charged with the reasonable cost of towing and storage fees. Any such towing or storage fee shall be a lien upon the vehicle prior to all other claims. Any person towing or storing a vehicle shall be entitled to retain possession of such vehicle until such charges are paid. The lien provided for this section shall not apply to the contents of any vehicles.

(Neb. RS 39-671, 39-697) (Ord. 304, passed 9-10-84; Am. Ord. 327, passed 9-6-88)

## CHAPTER 174: GENERAL REGULATIONS

### Section

#### *Animals*

- 174.01 Kennels
- 174.02 Unusual animals prohibited
- 174.03 Dogs; transport fee; release form

#### *Fire Regulations*

- 174.10 Fire prevention; fires prohibited
- 174.11 Fireworks
- 174.12 Fires regulated
- 174.13 Open burning ban

#### *Streets and Sidewalks*

- 174.20 Trees

#### *Nuisances*

- 174.30 Weed removal
- 174.31 Abatement procedure; appeal process

### **ANIMALS**

#### **§ 174.01 KENNELS.**

(A) (1) It shall be unlawful for any person to keep, or permit to be kept upon premises occupied by him/her or under his/her charge or control, any dog kennel, as defined by division (B) below, without having first obtained a kennel permit from the Village Board of Trustees. Kennel permits may be issued by the Board of Trustees upon written application, setting forth a description of the premises and location of the same and such other information as the Board of Trustees may require.

(2) Kennel permits shall be required for any person or persons who keep more than 3 dogs upon premises occupied by him/her, under his/her charge or control or for any use of premises meeting the definition of a kennel in division (B) below.

(3) No kennel permit shall be issued for any premises unless it complies with the village's zoning code and until the Board of Trustees, or their duly appointed personnel, shall first determine upon actual view and inspection that the operation of such kennel will not constitute a violation of the provisions of this section and will not constitute a nuisance or disturbance to the surrounding property owners and residents. No kennel permit will be issued for districts zoned as R-1, residential low density, or R-2, residential high density, and a dog kennel must be at least 300 feet from these zoning districts. No kennel permit shall be issued for any person who houses over 20 dogs at any one time on his/her premises. No kennel permit shall be issued to any person who has not first obtained a required license from the State of Nebraska and/or who has not had the premises inspected by the State of Nebraska prior to commencement of kennel operations. Kennel permits issued under the provisions of this section shall be effective from January 1 to December 31 of each year, and all permits shall expire on December 31 of the year for which issued. Provided, the Village Clerk is hereby authorized to prorate kennel permits based upon the month in which they were applied for. The initial fee for kennel permits shall be \$200. Kennel permits may be renewed on an annual basis at the discretion of the Board of Trustees upon the payment of a renewal fee of \$100. The Board of Trustees shall have power and authority to revoke any kennel permit at any time in its sole discretion by refunding the kennel permit fee to the holder thereof, after notice and hearing to the kennel owner or operator; provided, however, the provisions of this section shall not apply to the Animal Shelter or to animal hospitals operated by veterinarians duly licensed under the laws of the State of Nebraska, keeping dogs for others for treatment or boarding.

(B) For purposes of this section, *KENNEL* shall be construed to include any establishment for the raising, training, boarding or selling of dogs, either for personal use or for hire or profit, or where more than 3 dogs are harbored or kept.

(Ord. 694, passed 7-3-06; Am. Ord. 767, passed 8-27-18)

#### **§ 174.02 UNUSUAL ANIMALS PROHIBITED.**

(A) It shall be unlawful for any person or persons to own, keep, or harbor any unusual animal within the corporate limits of the village, except that this section shall not be construed to prohibit a public zoo, circus, humane society, or carnival from displaying unusual animals as exhibits, or to prohibit any wildlife rescue organizations with appropriate permits from the Nebraska Game and Parks Commission for rehabilitating or sheltering unusual animals.

(B) It shall be unlawful for any person or persons to sell, give away, transfer or import into the village any unusual animals as defined in this section, excluding a public zoo from doing business with another public zoo.

(C) In the event the Municipal Clerk or Animal Control Officer determines an unusual animal is being owned, kept or harbored by any person in violation of this section, the Municipal Clerk or Animal Control Officer may have such person prosecuted for such violation and may order such person to remove said unusual animal from the village or destroy it. Such order shall be contained in a written notice to remove or destroy said unusual animal within 10 days and shall be delivered in person or by certified mail, return receipt requested. If the owner or person keeping or harboring such unusual animal shall have failed to remove or destroy such unusual animal after the expiration of 10 days from the receipt of said notice and no appeal is taken to the Village Board of Trustees; the Board of Trustees shall cause such unusual animal to be destroyed.

(D) For the purposes of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**DOMESTICATED.** A tame animal that is subject to the dominion and control of an owner or person keeping or harboring said animal, and accustomed to living in or near human habitation without requiring extraordinary restraint for the protection of humans or unreasonably disturbing such human habitation.

**UNUSUAL ANIMAL.** Any poisonous or potentially dangerous animal not normally considered domesticated, and shall include animals prohibited by the village, State of Nebraska, or federal requirements, and also:

(a) Any live monkey (nonhuman primate), raccoon, skunk, fox, coyote, poisonous or dangerous snake, poisonous or dangerous insect, leopard, panther, tiger, lion, lynx or any other warm-blooded animal, which is now or historically has been found in the wild, or in the wild state within the boundaries of the United States, its territories, or possessions.

(b) This term includes, but is not limited to, animals such as deer, skunk, opossum, raccoon, mink, armadillo, coyote, squirrel, fox and wolf.

(E) *Animals and fowl; proximity to residences.*

(1) No person, whether as owner, bailee, keeper or custodian shall keep or maintain any horse, mule, cow, sheep, goat, swine, more than 2 rabbits or any other animal within the corporate limits of the village.

(2) No person, whether as owner, bailee, keeper or custodian shall keep or maintain any chickens, ducks, turkeys, geese, or any similar fowl within the corporate limits of the village.

(Ord. 745, passed 4-6-15)

**§ 174.03 DOGS; TRANSPORT FEE; RELEASE FORM.**

(A) A transport fee of \$100 will be charged against a dog owner when a dog is transported to the veterinary clinic in Seward. Any dog caught running at large will be transported to the clinic.

(B) All licenses and fees must be paid before obtaining a release form from the Municipal Clerk's office. A current rabies vaccination must be shown to the Clerk before dog tags are issued.

***FIRE REGULATIONS*****§ 174.10 FIRE PREVENTION; FIRES PROHIBITED.**

It shall be unlawful for any person to set fire to, burn, or cause to be burned, any matter, including but not limited to garbage, animal matter, vegetable matter, straw, hay, leaves or brush either in an enclosed fireproof trash burner or incinerator or in the open air, within the municipal limits.  
(Ord. 705, passed 9-2-08)

**§ 174.11 FIREWORKS.**

(A) *Discharge.*

(1) It shall be unlawful for any person to discharge, fire, launch or throw any fireworks or any object, which is lighted to explode or which explodes upon contact with another object:

- (a) From or onto any motor vehicle;
- (b) Onto any street, highway or sidewalk;

(c) During any pyrotechnics display authorized by special permit under the ordinances of the municipality and when the special permit authorized the display to be held at the village park, no lawfully permitted fireworks shall be exploded in the said village park during the time of said pyrotechnics display except by personnel authorized by said special permit;

- (d) At or near any persons;
- (e) Into or upon any building;



- (f) Into or at any group of persons; or
- (g) Into or upon the premises of another person.

(2) The discharge of exploding of fireworks within the municipality shall be permitted only on the following dates and during the following hours:

- (a) June 27 through July 3, 8:00 a.m to 10:00 p.m.
- (b) July 4, 8:00 a.m. to midnight.

(3) The discharge and exploding of fireworks within the municipality on any dates or times other than set out in this section shall be unlawful.

(B) *Hours of sale.* Fireworks permitted within the municipality may be sold at retail between June 27 and July 4 of each year during the following times:

- (1) June 27 through July 3, 8:00 a.m to 10:00 p.m.
- (2) July 4, 8:00 a.m. to midnight.

(Ord. 384, passed 5-3-93; Am. Ord. 385, passed 5-3-93)

**§ 174.12 FIRES REGULATED.**

It shall be lawful to build or set out certain fires; provided, that the person building such fires shall have the substance to be burned in a fireproof trash burner or incinerator with a metal fireproof screen of not more than 1 inch mesh, and located at least 20 feet from any building. The incinerator shall be built in such a way as to not permit the escape of burning paper or other substance, If any person shall require a fire in the course of his trade as a blacksmith or mechanic, such fire shall be built and maintained in the manner prescribed by the Fire Chief. All fires shall be built after 7:00 a.m. and completely extinguished by 8:00 p.m., except the aforesaid fires used in the course of a trade which shall be allowed during such hours as the Fire Chief shall prescribe. It shall be unlawful for any person to set fire to, burn, or cause to be burned any garbage, animal matter, or vegetable matter. The burning of straw, hay, leaves, or brush in the open air is hereby permitted and allowed; provided, that the person setting out the same request permission and receive an open burning permit in writing, signed by the local Fire Chief, on a form provided by the State Fire Marshal; and provided further, that any such burning shall be done while the said fire is attended by the person setting out the same at all times, and further provided that the said fire shall be located at least 20 feet from any building.

(Neb. RS 17-549, 17-556, 81-520.01)

**§ 174.13 OPEN BURNING BAN.**

(A) There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land. The Fire Chief of the Municipal Fire Department or his or her designee may waive an open burning ban issued under this section for an area under his or her jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning . Said permit issued by the Fire Chief shall be in writing, signed by the Fire Chief, and on a form provided by the State Fire Marshal.

(B) The Municipal Fire Chief or his or her designee may waive the open burning ban in his or her district when conditions are acceptable to the Chief. Anyone burning in such district when the open burning ban has been waived must notify the Fire Department of his or her intention to burn.  
(Neb. RS 81-520.01)

***STREETS AND SIDEWALKS*****§ 174.20 TREES.**

*Height of trees above streets and sidewalk.* The owner or occupant of any lot, piece or parcel of ground abutting or adjacent to any street or sidewalk over which there extends the branches of trees shall at all times keep the branches or limbs thereof trimmed to the height of 15 feet above the surface of said street and 7½ feet above the surface of said sidewalk.  
(Ord. 469, passed 7-1-96)

***NUISANCES*****§ 173.30 WEED REMOVAL.**

It shall be the duty of every owner of real estate in the municipality to cut and clear such real estate, together with one-half of the streets and alleys abutting thereon, of all weeds and worthless vegetation that are noxious, obstruct travel on public ways, or create a fire or health hazard. Such weeds and worthless vegetation shall be cut so as not to extend more than 6 inches above the ground. Subsequent to the cutting of the said weeds, all loose vegetation shall be immediately removed. Upon the failure of the owner, lessee, or occupant having control of any such real estate to cut and clear the said weeds and worthless vegetation as set forth hereinbefore, the Municipal Clerk shall serve notice on the said owner, lessee, or occupant to do so. In the event that the weeds and vegetation have not been removed after a

period of 5 days, the governing body may order the same to be done, and the cost thereof shall be chargeable to the property owner. If the owner fails to reimburse the municipality after being properly billed, the cost may be assessed against the real estate and the governing body shall have the assessment certified to the County Treasurer and the same shall be collected in the manner provided by law. In the event the property owner is a non-resident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the 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. RS 17-563.01, 18-1719, 18-1720, 28-1321)

### **§ 174.31 ABATEMENT PROCEDURE; APPEAL PROCESS.**

(A) It shall be the duty of every owner, occupant, lessee, or mortgagee of real estate in the municipality to keep such real estate free of public nuisances. Upon determination by the Board of Health that said owner, occupant, lessee, or mortgagee has failed to keep such real estate free of public nuisances, as defined, designated or provided for by this code, the governing body shall hereupon cause notice to abate and remove such nuisance and notice of right to a hearing before the governing body and the manner in which the hearing may be requested to be served upon the owner, occupant, or the authorized agent for the owner or occupant by personal service or certified mail. The notice shall describe the condition as found by the Board of Health, state that said condition has been declared a public nuisance, and that the condition must be remedied at once. Within 10 days after the receipt of such notice, if the owner or occupant has not complied with the order to abate and remove the nuisance, or has not requested a hearing before the governing body, the municipality shall have such work done to remove and abate the nuisance and may levy and assess the costs and expenses of the work upon the real estate so benefitted in the same manner as other special taxes for improvements are levied and assessed. Refusal or non-delivery of the certified mailing shall not abate the 10-day period provided above.

(B) If the owner or occupant requests in writing a hearing with the governing body, the governing body shall fix a time and place at which a hearing will be held. Notice of the hearing shall be given by personal service or certified mail and require the owner or occupant to appear before the governing body to show cause why such condition should not be found to be a public nuisance and remedied. Such notice shall be given not less than 7 and no more than 14 days before the time of the hearing. Refusal or non-delivery of the certified mailing shall not postpone the hearing. Upon the date fixed for the hearing and pursuant to the notice, the governing body shall hear all objections made by the owner or occupant and shall hear evidence submitted by the Chairperson of the Board of Trustees. If after consideration of all the evidence, the governing body shall find that the condition is a public nuisance, it shall by resolution, order and direct the owner or occupant to remedy the public nuisance at once, Should the

owner or occupant refuse or neglect to promptly comply with the order of the governing body, the governing body shall proceed to cause the abatement of the described public nuisance and may levy and assess the costs and expenses of the work upon the real estate so benefitted in the same manner as other special taxes for improvements are levied and assessed.

(Neb. RS 17-123.01,17-207, 18-1720)

(C) The municipality shall have the power to sell, at public or private sale, upon 5 days written notice, sent by regular mail to the property owner or occupant at his or her last known address, all property, titled, or non-titled, seized, confiscated, or otherwise removed by the municipality or its agents during the process of the abatement of the public nuisance as described. The proceeds of the sale of property sold by the municipality shall be first applied to any secured indebtedness, if any, remaining against the item or items sold, second, to the cost of the work involved in the abatement of the public nuisance and third, the balance, if any, to the property owner.

(Ord. 671, passed 8-1-05)

## CHAPTER 175: BUSINESS REGULATIONS

### Section

#### 175.01 Alcoholic beverages; hours of sale

#### § 175.01 ALCOHOLIC BEVERAGES; HOURS OF SALE.

(A) No alcoholic liquor, including beer, shall be sold at retail or dispensed on any day between the hours of 1:00 a.m. and 6:00 a.m. except that the Board of Trustees with respect to area inside the corporate limits of the village may by ordinance or resolution;

(1) Require closing prior to 1:00 a.m. on any day;

(2) If adopted by a vote of at least  $\frac{2}{3}$  of the members of the Board of Trustees, permit retail sale or dispensing of alcoholic liquor for consumption on the premises, excluding sales for consumption off the premises, later than 1:00 a.m. and prior to 2:00 a.m. on any day;

(3) If adopted by a vote of at least  $\frac{2}{3}$  of the members of Board of Trustees, permit retail sale of alcoholic liquor for consumption off the premises later than 1:00 a.m. and prior to 2:00 a.m. on any day; or

(4) If adopted by a vote of at least  $\frac{2}{3}$  of the members of Board of Trustees, permit retail sale or dispensing of alcoholic liquor for consumption on the premises, excluding sales for consumption off the premises, and permit retail sale of alcoholic liquor for consumption off the premises later than 1:00 a.m. and prior to 2:00 a.m. on any day.

(B) Except as provided for and allowed by ordinance of the Board of Trustees, no alcoholic liquor, including beer, shall be sold or dispensed for consumption on the premises inside the corporate limits of the village on any Sunday between the hours of 6:00 a.m. and 12:00 noon.

(C) It shall be unlawful on property licensed to sell alcoholic liquor at retail to allow alcoholic liquor in open containers to remain or be in possession or control of any person for purposes of consumption between the hours of 15 minutes after the closing hour applicable to the licensed premises and 6:00 a.m. on any day.

(D) Nothing in this section shall prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic liquor is prohibited by this section. (Neb. RS 53-179) (Ord. 750, passed 11-2-15)

## CHAPTER 176: GENERAL OFFENSES

### Section

#### *Lottery*

176.01 Lottery; participation; restrictions

#### *Curfew*

176.10 Curfew

#### *Sexually Oriented Businesses*

176.20 Definitions

176.21 Classification

176.22 Location

176.23 Violations and penalties

#### *Sexual Predator Residency Restrictions*

176.30 Findings and intent

176.31 Definitions

176.32 Exceptions; penalties

### **LOTTERY**

#### **§ 176.01 LOTTERY; PARTICIPATION; RESTRICTIONS.**

(A) No person under 19 years of age shall play or participate in any way in the lottery established and conducted in the municipality.

(B) No owner or officer of a lottery operator with whom the municipality contracts to conduct its lottery shall play the lottery conducted by the municipality. No employee or agent of the municipality,

lottery operator or authorized sales outlet location shall play the lottery of the municipality for which he or she performs work during such time as he or she is actually working at such lottery while on duty.

(C) Nothing shall prohibit the following persons from playing the lottery conducted by the municipality as long as such person is 19 years of age or older:

(1) Any member of the governing body, a municipal official, or the immediate family of such member or official; or

(2) An owner or officer of an authorized sales outlet location for the municipality.

(D) No person, or employee or agent of any person or the municipality, shall knowingly permit an individual under 19 years of age to play or participate in any way in the lottery conducted by the municipality.

(E) For purposes of this section the following definition shall apply unless the context clearly indicates or requires a different meaning.

***IMMEDIATE FAMILY OF A MEMBER OR THE GOVERNING BODY OR A MUNICIPAL OFFICIAL.***

(a) A person who is related to the member or official by blood, marriage or adoption and resides in the same household; or

(b) A person who is claimed by the member or official, or the spouse of the member or official, as a dependent for federal income tax purposes.

(Ord. 719, passed 9-13-10)

***Statutory reference:***

*Provisions on participation restriction, see Neb. RS 9-646*

***CURFEW***

**§ 176.10 CURFEW.**

(A) It shall be unlawful for any minor under the age of 16 years to loiter, idle, wander, stroll, play or be found in or remain upon any of the streets, roads, alleys, parks or any other public place of this village after the hour of 11:00 p.m. of any day until the hour of 5:00 a.m. of the following day, unless accompanied by a parent, guardian, or other adult person having the legal care, custody or control of such minor, or unless the minor is proceeding directly to or from the minor's school or a school related activity or to or from the minor's place of employment.



(B) It shall be unlawful for any minor who is 16 years of age or older and less than 18 years of age to loiter, idle, wander, stroll, play or be found in or remain upon any of the streets, roads, alleys, parks or any other public place of this village after the hour of 1:00 a.m. of any day until the hour of 5:00 a.m. of the following day, unless accompanied by a parent, guardian, or other adult person having the legal care, custody or control of such minor, or unless the minor is proceeding directly to or from the minor's school or a school related activity or to or from the minor's place of employment.

(C) The village parks which include the ball fields, tennis court, Tower Park, Pool View Park, RV camping sites, and park shelter are closed from 11:00 p.m. to 5:00 a.m.

(D) Any person who violates this section shall be punished as provided in this code.  
(Ord. 743, passed 11-10-14)

***SEXUALLY ORIENTED BUSINESSES***

**§ 176.20 DEFINITIONS.**

For purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ADULT ARCADE.*** Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to 5 or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

***ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE.***

(1) A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any 1 or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, compact discs, digital video discs, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or

(b) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

(2) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as **ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE**. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an **ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE** so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**ADULT CABARET.** A nightclub, bar, restaurant, or other commercial establishment which features:

- (1) Persons who appear in a state of nudity or semi-nude; or
- (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

**ADULT MOTEL.** A hotel, motel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
- (2) Offers a sleeping room for rent for a period of time that is less than 10 hours; or
- (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

**ADULT MOTION PICTURE THEATER.** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified, sexual activities or specified anatomical areas. This shall not include hotels or motels which offer adult movies for viewing as part of a selection of available movies that includes non-adult movies, on a pay-per-view basis.

**ADULT THEATER.** A theater, concert hall, auditorium, or similar commercial establishment which features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

**EMPLOYEE.** A person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. **EMPLOYEE** does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

**ESCORT.** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**ESCORT AGENCY.** A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

**ESTABLISHMENT.** Includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new businesses;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (3) The addition of any sexually oriented business to any other existing sexually oriented business; or
- (4) The relocation of any sexually oriented business.

**NUDE MODEL STUDIO.** Any place where a person who appears semi-nude, in a state of nudity, or who displays specified anatomical areas and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. **NUDE MODEL STUDIO** shall not include a proprietary school licensed by the State of Nebraska or a college or junior college.

**NUDITY or A STATE OF NUDITY.** The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a frilly opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

**PERSON.** An individual, proprietorship, partnership, corporation, association, or other legal entity.

**SEMI-NUDE or IN A SEMI-NUDE CONDITION.** The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female

buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

***SEXUAL ENCOUNTER CENTER.*** A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex;
- or
- (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

***SEXUALLY ORIENTED BUSINESS.*** An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

***SPECIFIED ANATOMICAL AREAS.***

- (1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- (2) Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

***SPECIFIED SEXUAL ACTIVITIES.*** Any of the following:

- (1) The actual or simulated fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
  - (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
  - (3) Excretory functions as part of or in connection with any of the activities set forth in divisions (1) and (2) above.
- (Ord. 693, passed 7-3-06)

**§ 176.21 CLASSIFICATION.**

Sexually oriented businesses are classified as follows:

- (A) Adult arcades;

(B) Adult bookstores, adult novelty stores, or adult video stores;

(C) Adult cabarets;

(D) Adult motels;

(E) Adult motion picture theaters;

(F) Adult theaters;

(G) Escort agencies;

(H) Nude model studios; and

(I) Sexual encounter centers.

(Ord. 693, passed 7-3-06)

**§ 176.22 LOCATION.**

(A) A sexually oriented business may only be located in the IM (Industrial Moderate Hazard) District as defined and described in the village zoning ordinance. A person violates this subchapter and is subject to the penalty as provided herein if that person locates or operates or causes to be located or operated a sexually oriented business in any zoning district other than the IM (Industrial Moderate Hazard) District.

(B) A person commits an offense if the person operates or causes to be operated a sexually oriented business within 400 feet of:

(1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

(2) A public or private educational facility including but not limited to child daycare facilities, nursery schools, preschools, kindergarten, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, colleges and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

(3) A boundary of a residential district as defined in the village zoning ordinance;

(4) A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir,

athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the village which is under the control, operation, or management of the village park and recreation authorities;

(5) The property line of a lot devoted to a residential use as defined in the village zoning ordinance;

(6) An entertainment business which is oriented primarily towards children or family entertainment;

(7) A licensed premises, licensed to serve and/or sell alcoholic beverages by the Nebraska Liquor Control Commission; or

(8) Any publicly-owned facility, including but not limited to fire stations, police stations, village offices or structures which are periodically used by members of the general public for private or public gatherings.

(Ord. 693, passed 7-3-06)

#### **§ 176.23 VIOLATIONS AND PENALTIES.**

(A) A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented, business within 400 feet of another sexually oriented business.

(B) For the purpose of § 176.22(B), measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted! to the nearest property line of the premises of a use listed in § 176.22(B). Presence of a village, county or other political subdivision boundary shall be irrelevant for the purposes of calculating and applying the distance requirements of this section.

(C) Any person found guilty of any violation of this subchapter shall be subject to a fine of not less than \$100 per violation. A separate offense and violation shall be deemed committed on each day of which a violation occurs or continues. In the alternative, the village may enjoin such activities which are in violation of this subchapter.

(D) Any sexually oriented business lawfully operating on July 1,2006, that is in violation of this section and § 176.22 shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed 1 year, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use.

(Ord. 693, passed 7-3-06)

***SEXUAL PREDATOR RESIDENCY RESTRICTIONS*****§ 176.30 FINDINGS AND INTENT.**

(A) The Nebraska Legislature has found that certain sex offenders present a high risk to commit repeat offenses and has enabled municipalities to restrict such persons place of residency as provided in the Sexual Predator Residency Restriction Act.

(B) Sex offenders who prey on children and who are high risks to repeat such acts present an extreme threat to public safety. The cost of sex offender victimization to these children and to society at large, while incalculable, is exorbitant.

(C) It is the intent of this subchapter to serve the village's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the village by creating certain areas around locations where children regularly congregate in concentrated numbers where certain sexual predators cannot reside.

(Ord. 695, passed 7-3-06)

**§ 176.31 DEFINITIONS.**

For purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***CHILD CARE FACILITY.*** A facility licensed pursuant to the Child Care Licensing Act.

***RESIDE.*** To sleep, live, or dwell at a place, which may include more than one location, and may be mobile or transitory.

***RESIDENCE.*** A place where an individual sleeps, lives, or dwells, which, may include more than one location, and may be mobile or transitory.

***SCHOOL.*** A public, private, denominational, or parochial school which meets the requirements for state accreditation or approval.

***SEX OFFENDER.*** An individual who has been convicted of a crime listed in Neb. RS 29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act.

**SEXUAL PREDATOR.** An individual who is required to register under the Sex Offender Registration Act, who has been classified as Level 3 because of a high risk of recidivism as determined by the Nebraska State Patrol under Neb. RS 29-4013, and who has victimized a person 18 years of age or younger.

(Ord. 695, passed 7-3-06)

**§ 176.32 EXCEPTIONS; PENALTIES.**

(A) *Prohibited location of residence.* It is unlawful for any sexual, predator to reside within 500 feet from a school or child care facility.

(B) *Measure of distance.* For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or child care facility.

(C) *Exceptions.* This subchapter shall not apply to a sexual predator who:

(1) Resides within a prison or correctional or treatment facility operated by the state or a political subdivision;

(2) Established a residence before July 1, 2006, and has not moved from that residence; or

(3) Established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location.

(D) *Penalties.* A person who violates this section shall be punished as provided generally in the code.

(Ord. 695, passed 7-3-06)

**Statutory reference:**

*Sexual Predator Residency Restriction Act, see Neb. RS 29-4003 and 29-4013*



## CHAPTER 177: LAND USAGE

### Section

#### *Building Regulations*

- 177.01 Plumbing code; prohibition of lead pipes, solder and flux
- 177.02 Fencing requirements

#### *Zoning and Subdivision Regulations*

- 177.10 Zoning regulations
- 177.11 Subdivision regulations

### ***BUILDING REGULATIONS***

#### **§ 177.01 PLUMBING CODE; PROHIBITION OF LEAD PIPES, SOLDER AND FLUX.**

(A) Any pipe, solders or flux used in the installation or repair of any residential or non-residential facility which is connected to the public water supply system shall be lead-free.

(B) For purposes of this section the following definition shall apply unless the context clearly indicates or requires a different meaning.

#### ***LEAD-FREE.***

(a) Solders and flux - not more than .2% lead; and

(b) Pipe and pipe fittings - not more than 8% lead.

(Ord. 331, passed 9-6-98)

#### ***Statutory reference:***

*For related provisions, see Neb. RS 71-5301*

**§ 177.02 FENCING REQUIREMENTS.**

(A) *General requirements.* Except as otherwise specifically provided in other codes, ordinances or resolutions, the following regulations shall apply to the construction and placement of fences:

- (1) No fence shall be constructed which will constitute a traffic hazard.
- (2) No fence shall be constructed in such a manner to be of such design as to be hazardous or dangerous to persons or animals, specifically, the use of barbed wire and electrical fences in residential districts is prohibited.
- (3) No fence shall be constructed on public right-of-way unless approved by the Village Board.
- (4) All fences constructed shall conform to the construction standards of the Building Code.
- (5) No fence shall be constructed or moved until a building permit shall have been procured from the Building Inspector's office and appropriate fee paid.
- (6) It is recommended that the owner have a survey completed locating the property lines and easements of record where the fence is to be installed. It is the owner responsibility to know where their property lines are located.
- (7) Before digging or excavating the owner or contractor shall contact *Diggers Hotline*.
- (8) Access shall be allowed for the maintenance of all existing utility lines, poles, wires, transformers or manholes.

(B) *Definition.* For purposes of this section the following definition shall apply unless the context clearly indicates or requires a different meaning.

**FENCE.** Any vertical structure, other than a building or plant material, which is for the purpose of obstructing visual observation or for the purpose of obstructing pedestrian, automotive or animal movement or for the purpose of beautification, and which is attached to the ground or to a building, but excluding retaining walls.

(C) *Location.*

(1) *Residential districts.*

(a) *Front yard.* A fence not more than 78 inches in height and not more than 30 inches within the sight triangle on a corner lot or the sight triangle adjacent to an alley.

(b) *Corner lot second frontage (street side yard)*. A fence not more than 30 inches in height within the sight triangle on a corner lot or the sight triangle adjacent to an alley.

(2) *Commercial/industrial districts*. Fences shall be located and constructed as per landscaping/screening requirements for the district.

(3) *Sidewalks/alleys*. A fence shall not be constructed within 2 feet of any public sidewalk or within 1 foot of any alley.

(D) *Easements*. Any fence, or part thereof, erected within that part of any lot, block or other tract of land which is subject to an easement for the construction, maintenance, operation or replacement of any water, sanitary or storm sewer, gas line, electric line, cable television or telephone line or other utility poles, wires or cables shall be constructed of such material and so designed as to be readily removable, as determined by the Building Inspector and appropriate departments or utilities. Such fences shall be subject to removal by the village/utility or may be contracted by the village/utility for removal whenever necessary for the construction, maintenance or replacement of any utility line or apparatus. Fences shall be removed or replaced at the expense of the owner of the premises. Replacement shall be the responsibility of the owner of the premises. In the event that an existing fence violates the public right-of-way or an easement and the village deems it necessary to remove the fence for reasons of street or utility work, said fence shall be removed at the property owners expense. Replacement shall be the responsibility of the owner of the premises.

(E) *Construction requirements*.

(1) All fences shall be constructed of wood, metal, plastic, fiberglass or masonry materials, shall be structurally sound, shall have a neat and finished appearance and shall be straight and true.

(2) Fences shall be so constructed as to have the finished side facing adjacent properties and street frontages.

(3) Fences shall not be constructed within 2 feet of any public sidewalk or within 1 foot of any alley.

(4) Fences must be maintained in good repair. The Building Inspector may order any dilapidated, listing, dangerous, unsound or nonconforming fence repaired or removed.

(F) *Permit fees*. Permit fees shall be paid upon application for a fence permit. The minimum fee shall be \$25.

(Ord. 682, passed 8-1-05)

***ZONING AND SUBDIVISION REGULATIONS*****§ 177.10 ZONING REGULATIONS.**

(A) The village desires to adopt zoning regulations for the purpose of promoting health, safety, morals and the general welfare of the community pursuant to Neb. RS 19-901 et seq.

(B) The Village Board engaged Hanna:Keelan Associates, P.C. to prepare zoning regulations for the Village of Utica.

(C) Hanna;Keelan prepared the Zoning Regulations 2011, a true and correct copy of which has been attached as Exhibit A to Ordinance 2011-725 and is incorporated herein by reference as if fully set forth herein and the village hereby adopts said zoning regulations as the Zoning Regulations of the Village of Utica, Nebraska.

(Ord. 2011-725, passed 8-1-11)

**§ 177.11 SUBDIVISION REGULATIONS.**

(A) The village desires to provide the manner, plan and method by which land may be subdivided, platted or laid out and other matters relating to the subdivision of land pursuant to Neb. RS 19-916 through 19-922 and 17-1001 through 17-1003.

(B) The Village Board engaged Hanna:Keelan Associates, P.C. to prepare subdivision regulations for the Village of Utica.

(C) Hanna;Keelan prepared the Subdivision Regulations 2011, a true and correct copy of which has been attached as Exhibit A to Ordinance 2011-726 and is incorporated herein by reference as if fully set forth herein and the village hereby adopts said subdivision regulations as the Subdivision Regulations of the Village of Utica, Nebraska.

(Ord. 2011-726, passed 8-1-11)

## **TABLE OF SPECIAL ORDINANCES**

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- I. ANNEXATIONS**
- II. BONDS**
- III. FRANCHISES AND AGREEMENTS**
- IV. STREETS AND ALLEYS**



**TABLE I: ANNEXATIONS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
06-698	11-6-06	Annexing Centennial Heights Addition and a tract of land in the Southwest Quarter of the Southwest Quarter, Section 29, Township 11, North Range 1, East of the 6 <sup>th</sup> P.M., Seward County.





**TABLE II: BONDS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
581	9-5-00	Issuance of refunding bonds in the principal amount of \$580,000.
652	10-6-03	Issuance of swimming pool bonds in the principal amount of \$250,000.
697	10-2-06	Issuance of sewer utility bond anticipation notes, 2006 series in the amount of \$435,000.
712	2-16-10	Issuance of refunding bonds in the principal amount of \$175,000.



**TABLE III: FRANCHISES AND AGREEMENTS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
702	10-1-07	Granting to Sourcegas Distribution LLC the right, permission and authority to construct, maintain and operate a gas transmission and distribution system.
714	7-5-10	Granting to Zelinger Keno, Inc. The exclusive right to operate a legal, keno-style lottery.
717	8-2-10	Approving the assignment and transfer of all rights and privileges under the cable television franchise granted to Galaxy Cable, Inc. to Zito Midwest LLC.



**TABLE IV: STREETS AND ALLEYS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
264	1-3-77	Approving plat and dedication of Eighth Street.
267	4-4-77	Naming Centennial Avenue, which will commence at Highway 34 to the north and thence run one mile south to the Seward County road on the southernmost portion of Utica.



## PARALLEL REFERENCES FOR TITLE XVII

### References to Nebraska Revised Statutes

<b>Neb. RS Section</b>	<b>Title XVII Section</b>
9-646	176.01
17-123.01	174.31
17-207	174.31
17-502	170.01
17-531	172.025
17-534	172.025
17-536	172.037
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17-539	172.038
17-540	172.032
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17-549	174.12
17-556	174.12
17-563.01	174.30
17-925.02	172.080
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18-416	172.033
18-1719	174.30
18-1720	174.30, 174.31
18-1729	173.11
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18-2101.01	171.01
18-2147 - 18-2153	171.01
19-901 et seq.	177.10
19-916 - 19-922	177.11
19-1305	172.025
19-2701	172.027
28-1321	174.30
29-4003	176.31
29-4013	176.31

## Utica - Local Legislation

<b>Neb. RS Section</b>	<b>Title XVII Section</b>
39-608	173.17
39-671	173.18
39-673	173.13
39-674	173.12
39-697	173.13, 173.14, 173.15, 173.16, 173.18
53-179	175.01
60-678 et seq.	173.03
60-4,126	173.02
60-6,219	173.03
60-6,241	173.03
60-6,356 et seq.	173.02
60-6,357	173.02
60-6,358	173.02
71-5301	177.01
77-1201 - 77-27,135	171.10
77-27,142 - 77-27,148	171.10
81-520.01	174.12, 174.13



References to Ordinances

<b>Ord. No.</b>	<b>Date Passed</b>	<b>Title XVII Section</b>
264	1-3-77	T.S.O. IV
267	4-4-77	T.S.O. IV
304	9-10-84	173.18
311	6-2-86	173.04
327	9-6-88	173.18
331	9-6-98	177.01
365	11-29-91	171.02
375	9-8-92	172.050 - 172.062
383	9-7-93	172.044
384	5-3-93	174.11
385	5-3-93	174.11
412	6-6-94	172.01, 172.02
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506	10-6-97	172.12
553	6-9-99	172.10
581	9-5-00	T.S.O. II
594	8-6-01	172.14
628	10-7-02	172.14
629	12-2-02	173.11
652	10-6-03	T.S.O. II
682	8-1-05	177.02
691	10-3-05	172.11
694	7-3-06	174.01
697	12-2-06	T.S.O. II
06-698	11-6-06	T.S.O. I
702	10-1-07	T.S.O. III
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707	11-3-08	173.01
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712	10-1-07	T.S.O. III
713	5-3-10	173.02
714	7-5-10	T.S.O. III
715	8-2-10	173.03
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**Utica - Local Legislation**

<b>Ord. No.</b>	<b>Date Passed</b>	<b>Title XVII Section</b>
719	9-13-10	176.01
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722	6-5-11	172.13, 172.20
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2011-725	8-1-11	177.10
2011-726	8-1-11	177.11
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695	7-3-06	176.30 - 176.32
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742	11-10-14	171.11
743	11-10-14	176.10
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