

Utica Nebraska

Village Board of Trustees

**January 9, 2023 Regular Meeting**

The Village Board of Trustees met in regular session on January 9, 2023 at 7:00 pm at the Utica Auditorium. Notice of this meeting was given in advance by posting in three designated places and advance notification of the trustees by delivery. Roll call was answered by Trustees Swanson, Powell, Olson and Ramsey. Absent was Micek.

The Pledge of Allegiance was recited.

Chair stated that the Open Meetings Act is located on the back wall for review.

Moved by Powell, seconded by Ramsey to approve consent agenda. RCV: Ayes: Powell, Olson, Ramsey & Swanson. Nays: None Abstain: None. Carried.

**Public Comments:** Resident felt website wasn't working on the phone.

**Fire Dept. Report:** Deremer reports 99 calls for 2022, 76 rescue & 23 Fire.

**Sheriff Report:** Was examined by the board. Reported they are handling problem vehicles.

**Zoning Inspector Report:** No new applications.

**Chair Report:** It was suggested to him to change 'No Parking' on 4<sup>th</sup> street from north side to south side of the street. Trustees to evaluate this and will discuss it at February meeting.

**Park Report:** Attached and made a part hereof. Moved Olson, seconded by Ramsey to approve the pool hours of Monday-Friday 1-8 pm and Saturday-Sunday 1-6 pm

**Senior Center:** Lurz reports they had a nice crowd for trick roping and are planning a soup/sundae event 1/22/23.

**Maintenance Report:** Attached and made a part hereof.

**Clerk Report:** Attached and made a part hereof. Motion Olson, seconded by Powell to approve expenses for Trustees who want to attend the League of Nebraska Municipalities Mid-winter conference. RCV: Ayes: Powell, Olson, Ramsey & Swanson. Nays: None Abstain: None. Carried.

**Treasurer's Report:** Attached and made a part hereof.

**Keno Report:** Attached and made a part hereof.

Motion Powell, seconded by Olson to accept all reports given. . RCV: Ayes: Powell, Olson, Ramsey & Swanson. Nays: None Abstain: None. Carried.

**Unfinished Business:**

- 1) Ordinance #785 establishes the policy for Shouses, Barnominums, & non-conforming homes and containers. After discussion, Motion Olson, seconded by Powell to change ordinance purpose #3 to 'The home portion of the building must be completed within two years of the starting date of the building and occupy at least 50% of the entire structure.' RCV: Ayes: Powell, Olson, Ramsey & Swanson. Nays: None Abstain: None. Carried. Motion Powell, seconded by Olson to introduce Ordinance #785 with the above change and forego the 3 readings for approval. RCV: Ayes: Powell, Olson, Ramsey & Swanson. Nays: None Abstain: None. Carried.
- 2) Ordinance #786 establishes the policy of cats and animal waste in the Village of Utica. Motion Powell, seconded by Olson to introduce Ordinance #786 for approval. . RCV: Ayes: Powell, Olson, Ramsey & Swanson. Nays: None Abstain: None. Carried.

- 3) Ordinance # 787 establishes policy of wind energy systems in the Village of Utica, Nebraska and associated one-mile planning jurisdiction. Motion Ramsey, seconded by Olson to remove the 'intent' portion of the ordinance. RCV: Ayes: Powell, Olson, Ramsey & Swanson. Nays: None Abstain: None. Carried. Motion Powell, seconded by Ramsey to introduce Ordinance # 787 with the above change and forego the 3 readings for approval. . RCV: Ayes: Powell, Olson, Ramsey & Swanson. Nays: None Abstain: None. Carried.
- 4) Resolution 2023-1 to set tap fees for water and sewer. Motion Powell, seconded by Olson to approve resolution 2023-1. . RCV: Ayes: Powell, Olson, Ramsey & Swanson. Nays: None Abstain: None. Carried.
- 5) Motion Powell, seconded by Olson to approve new PTO policy . RCV: Ayes: Powell, Olson, Ramsey & Swanson. Nays: None Abstain: None. Carried. Motion Olson, seconded by Powell to approve new wording of the matching funds policy and to raise matching to 4% to take effect on the first payperiod of October, 2023. RCV: Ayes: Powell, Olson, Ramsey & Swanson. Nays: None Abstain: None. Carried
- 6) Communication tool. Clerk mentioned getting .gov emails. No action taken.

**New Business:**

- 1) Motion Powell, seconded by Olson to approve a sale of 1085 G street from Lauterbach to Fehlhafer. RCV: Ayes: Powell, Olson, Ramsey & Swanson. Nays: None Abstain: None. Carried. Motion Powell, seconded by Ramsey to waive all fees of the Lauterbach agreement from the point of sale to current. . RCV: Ayes: Powell, Olson, Ramsey & Swanson. Nays: None Abstain: None. Carried. Motion Powell, seconded by Olson to extend the Lauterbach Redevelopment Agreement after eliminating item 1, and changing item 2 to commence construction by July 1, 2023, all other items remain the same and enforceable. RCV: Ayes: Powell, Olson, Ramsey & Swanson. Nays: None Abstain: None. Carried.
- 2) Motion Powell, seconded by Ramsey to approve the application for a loan and a grant from LB 840 funds for Centennial Market Cooperative. . RCV: Ayes: Powell, Ramsey & Swanson. Nays: None Abstain: Olson. Carried.
- 3) Discuss projected cost of paving the remainder of F street to Alvo Road. Chair to talk with Dave Ziska of Olsson and see how we should proceed. New discussion at February meeting.
- 4) Ordinance # 788 to revise all of the ordinances of the Village by adopting the 2022 Nebraska Basic Code of Ordinances. Motion Powell, seconded by Olson to introduce Ordinance #788 and forego the 3 reading to approve. . RCV: Ayes: Powell, Olson, Ramsey & Swanson. Nays: None Abstain: None. Carried.
- 5) Discussed need for an ordinance that does not allow chemigation through sprinkling systems inside the Village proper . Maintenance to check for an ordinance. To be discussed at the next meeting.
- 6) Motion Powell, seconded by Ramsey to apply to join the National Flood Insurance Program. RCV: Ayes: Powell, Olson, Ramsey & Swanson. Nays: None Abstain: None. Carried.
- 7) Discussed the process needed for adding an additional wastewater line. Also discussed possible need of adding an additional water line to the south side of Utica.
- 8) Motion Olson, seconded by Ramsey to declare 650 Centennial Ave a nuisance and to proceed with the attorney. RCV: Ayes: Powell, Olson, Ramsey & Swanson. Nays: None Abstain: None. Carried.

9) Discussed the letter from Terracon/Verizon about a telecommunication tower to be installed. Chair will call the phone number on the letter to find out more.

10) Discussed and decided not to act on the Natural Resources Conservation Service request data application until more plans are made for ballfields and a swimming pool.

Motion Powell, seconded by Olson to adjourn at 9:15pm. RCV: Ayes: Powell, Olson, Ramsey & Swanson. Nays: None Abstain: None. Carried.

Next meeting will be February 6, 2023 at 7:00 pm at the Utica Auditorium.

**Claims:** Norris Public Power, services 8919.30; B Erks, services 100; Gierhan Construction, services 10050; G Dittmar, services 126.89; Metallum Custom Egress, services 900; Centennial Public School, fees 55; Mid-American Research, supplies 1342; Advanced Office Automation, services 11.70; Mierau, services 110; Verizon, services 165.47; Seward County Sheriff, services 504; Great Plains Pest Management, services 220; Dollar General, supplies 9.10; Walmart, supplies 184.61; Amazon, supplies 60.88; US Postal Service, postage 9.30; University of NE, education 393; Grainger, supplies 271.01; Kopchos, services 135; Windstream, services 1024.60; Quadiant Financial, postage 473.99; NE Public Health, services 33; Central Valley Ag, fuel 347.01; League Association of Risk Management, insurance 3409.12; JR's Bobcat Service, services 2204.75; Life Guard MD, supplies 132; American Legal Publishing, services 700; One-call Concepts, services 103.92; Reed Electric, services 426.67; Olsson, services 225.86; American Swing Products, repairs 210; John Deere Financial, mower payment 280.05; TNT, meals 559; St Paul Lutheran, meals 966; Seward County Clerk, fees 100; Nebraska Municipal Power, services 2013; Centennial Market, supplies 247.40; D. Lurz, supplies 25; Lee Enterprises, services 22.21; Seward County Independent, service 47.40; Black Hills Energy, services 1110.15; Utica Parts & Service, repairs 872.07; Wages 21746.81; Benefits 2553.37; employee taxes 6749.58.

Submitted by

Rita Maier

Clerk/Treasurer

## **Minutes of the Utica Parks & Pool Board Meeting**

**Held on January 8, 2023 @ 6:30pm in the Village of Utica Auditorium**

**Present:** Autumn Walford, Kenna Kucera, Danae Soliz, Diana Tomes, Megan Outhet, Colette Stelling, Desi Perry.

Not present Stephanie Cradick and Tori Gierhan

Supervising Village Board member Sharon Powell.

The monthly meeting of the Utica Parks & Pool Board was called to order at 6:30 pm on January 8, 2023 in the Village Auditorium by Autumn Walford.

### ***I. Approval of Agenda***

The agenda for the meeting was distributed and approved by a majority of those present.

Autumn Walford made a motion to approve agenda Colette Second - All Ayes approved agenda

### ***II. Review of Previous Minutes***

The minutes of the previous meeting were reviewed and unanimously approved

Autumn Walford made a motion to approve last meeting agenda 2<sup>nd</sup> by Desi Perry – All Ayes

### ***III. Consideration Of Open Issues***

Autumn made a motion to appoint Colette and Kenna for secretary for a 1 year and to reappoint Deana Soliz for Vice President of the board – Desi 2<sup>nd</sup> motion – Ayes from the board.

Donations from public of \$500 and from concession stands \$923.30

Colette will discuss land questions around current ball fields before the next meeting.

Advertising on website and Facebook and flyers at the school for Life guards for this summer 2023 and Pool managers. Apps will be due to the Village office no later than February 23<sup>rd</sup> @ 4pm via Village office or Email.

Parks Board will discuss applications on our February 26<sup>th</sup> meeting

A motion was made by Autumn Walford for the Village Board permission to approve Lifeguards Pool hours 2023 regular Summer Season  
Monday – Friday 1pm- 8pm and Saturday and Sunday 1-6pm 2<sup>nd</sup> by Kenna – All  
eyes board

Next meeting will be held February 26<sup>th</sup> @ 6:30, at village auditorium.

The agenda will be emailed to the board by Autumn Walford and posted with public announcement of meeting by Village Clerk.

Meeting was adjourned @ 8:18pm by Autumn Walford

Minutes submitted by: Colette Stelling/ Kenna Kucera

Minutes to be approved by: The Village of Utica Board of Trustees

## January 9, 2023 Board Meeting Maintenance Report

- Christmas lights were taken down and stored until next season.
- We received several calls/call outs during the extreme cold of frozen pipes and broken pipes within homes.
- We had a curb stop that would not shut off, so we had to dig it up and replace with a new curb stop.
- The high-pressure pump on the Jetter truck was repaired.
- Snow plows were serviced and cutting edges were changed.
- Water and sewer services were disconnected prior to the demolition of the old Utica care center.
- I have set up the street sweeper demo for early spring.
- Sewer checks are taking place throughout the collection system.
- Monthly reports were filled out and turned in.
- Discuss sand/salt spreader
- Discuss heating in auditorium basement
- 

### Action Items:

-

## CLERK'S REPORT

January 9, 2023

20 disconnect letters sent. 13 Owners & 7 renters.  
3 Door hangers 0 disconnects.

- 1) LONM Midwinter Conference Feb 27-28
- 2) NMPP energy conference March 21-23
- 3) Letter of intent for Nebraska Economic Development grant
- 4) Planning Commission meeting 1/25/23 Plats & rezoning of old care center
- 5) Security cameras
- 6) Do you want to run for the Nebraska Rural Water Association Board of Directors—I have information.
- 7) Advertise for Ball field manager?

Utica Keno  
November, 2022

Gross Sales	<u>100.00%</u>	<u>\$6,158.26</u>
Prizes (Payouts)	<u>70.1237%</u>	<u>\$4,318.40</u>
Operator Commission	<u>14.0000%</u>	<u>\$862.16</u>
Add'l Amt. owed oper....		\$0.00
City Share	<u>10.5176%</u>	<u>\$647.70</u>
Uncollected Winnings	<u>5.3587%</u>	<u>\$330.00</u>
State+Uncoll.+City Total to city		<u>\$977.70</u>
To RESERVE FUND>	<u>\$0.00</u>	
Amount avail in reserve...	\$0.00	
Amt. prev owed oper..	\$0.00	
amt.paid back this month...	<u>\$0.00</u>	
Amt. now owed operator....	<u>\$0.00</u>	



Village of Utica  
**Profit & Loss**  
 December 2022

	Dec 22
Ordinary Income/Expense	
Income	
General Income	
Compost Sales	422.25
Bank Interest	1,140.47
County Treasurer	431.55
Franchise payments	31,303.41
Keno Proceeds	977.70
Licenses- Liquor, tobacco & dog	20.00
Rent-Zito	300.00
Sales Tax Collection Fee	19.14
Sales Tax revenue	11,394.92
State Equalization	7,817.18
Auditorium Income	
Rent	75.00
Total Auditorium Income	75.00
Total General Income	53,901.62
Park Income	
Fund raiser	452.50
Total Park Income	452.50
Pool Income	
County Treasurer-Bond	119.23
Total Pool Income	119.23
Senior Center Income	
Fundraising - donations	10.00
Interest Earned-CD	7.70
Meal Contributions	1,129.50
Meals on Wheels	120.00
Miscellaneous	0.00
Rental fees	400.00
USDA reimbursement	208.60
Total Senior Center Income	1,875.80
Sewer Income	
Late Fee	280.00
Sewer Sales	8,869.00
Total Sewer Income	9,149.00
Water Income	
Late Fee	280.00
Shut off	22.64
Start up	40.00
Water Bulk	80.00
Water-Commercial	1,078.91
Water Sales	18,836.54
Total Water Income	20,338.09
Streets Income	
County Motor Vehicle tax	1,307.79
Sales Tax revenue	5,391.89
State Highway Allocation	10,193.10
Total Streets Income	16,892.78
Total Income	102,729.02
Gross Profit	102,729.02
Expense	
General	

Village of Utica  
 Profit & Loss  
 December 2022

	Dec 22
Law Enforcement	504.00
Bank & CC fees	24.00
Education	393.00
Hail damage repairs	20,046.28
Miscellaneous Expense	871.00
Office Supplies	186.42
Postage	78.49
Professional Services	143.00
Publishing / Printing	97.39
Utilities	316.43
Auditorium	
Supplies	13.28
Utilities	89.69
<b>Total Auditorium</b>	<b>102.97</b>
Library	
Repairs & Maintenance	5,350.00
Utilities	120.15
<b>Total Library</b>	<b>5,470.15</b>
Senior Center-City paid	
Payroll	1,066.24
Payroll taxes	611.16
Profession Services	98.00
Repairs & Maint.	41.75
Utilities	393.38
<b>Total Senior Center-City paid</b>	<b>2,210.53</b>
<b>Total General</b>	<b>30,443.66</b>
Payroll	
Employee Benefits	2,344.09
Payroll Taxes	6,120.74
Payroll Wages	16,128.31
<b>Total Payroll</b>	<b>24,593.14</b>
City Fire Dept	
Professional Services	33.00
Repairs & Maintenance	4,234.05
Utilities	688.30
<b>Total City Fire Dept</b>	<b>4,955.35</b>
Rural Fire District	
Repair and Maintenance	170.46
<b>Total Rural Fire District</b>	<b>170.46</b>
Park	
Mower Loan Payment	280.05
Professional Services	33.00
Utilities	176.00
<b>Total Park</b>	<b>489.05</b>
Pool	
Supplies	0.00
Repairs & Maintenance	0.00
Utilities	70.51
<b>Total Pool</b>	<b>70.51</b>
Senior Center	
Activities	0.00
Consulting fee	100.00
General Supplies/Printing	2.68

Village of Utica  
Profit & Loss  
December 2022

	Dec 22
Meals purchased	1,703.00
Payroll Wages	106.79
Payroll Tax	17.68
Supplies/Kitchen	6.42
Raw Food	32.53
Repairs and maintenance	69.95
<b>Total Senior Center</b>	<b>2,039.05</b>
Sewer Dept	
Chemicals	1,726.00
OMR Contribution	360.00
Postage	138.39
Repairs and Maintenance	788.86
Utilities	274.66
<b>Total Sewer Dept</b>	<b>3,287.91</b>
Street Dept	
Automobile Expense	24.27
Equipment Purchase	5,836.18
Fuel	180.01
Office Supplies	24.25
Professional Services	33.00
Repairs and Maintenance	676.21
Supplies & Parts	251.22
Uniform-Dylan	0.00
Uniform-Rick	69.49
Utilities	1,497.03
<b>Total Street Dept</b>	<b>8,591.66</b>
Water Dept	
Loan Payment	130,000.00
Interest paid on loan	10,877.50
Admin Fee on loan	0.00
Postage	138.39
Professional Services	66.00
Repairs - Maint.	8,433.17
Supplies & parts	170.16
Utilities	5,724.98
<b>Total Water Dept</b>	<b>155,410.20</b>
<b>Total Expense</b>	<b>230,050.99</b>
<b>Net Ordinary Income</b>	<b>-127,321.97</b>
<b>Net Income</b>	<b>-127,321.97</b>

COPY

REDEVELOPMENT AGREEMENT

This Redevelopment Agreement is executed this 22<sup>nd</sup> day of November, 2021, between BRIAN LAUTERBACH, Purchaser, and THE VILLAGE OF UTICA, Village.


WHEREAS BRIAN LAUTERBACH was the successful Purchaser of Lots 11 and 12, Block 34, Wright's Third Addition, Utica, Seward County, Nebraska excepting the North 66 Feet thereof, and

WHEREAS, the Resolution authorizing the sale of this property by the Village provided that the successful Purchaser would execute a Redevelopment Agreement with the Village containing terms under which the Village would expect this property to be redeveloped,


NOW, THEREFORE, in consideration of these findings the Purchaser and the Village agree as follows:

1. Within 60 days from the calendar date of the closing of the sale of this property, the Purchaser will cause all existing structures currently located on the property to be demolished and completely removed, with the underlying real estate finished to grade.
2. Within one year from the date of the closing of this transaction the Purchaser agrees to commence construction of a conventionally built or completely manufactured single family residence upon the subject property on a permanent foundation. A mobile home, even with axles removed, shall not be permitted. Purchaser agrees to fully complete construction no later than a date exactly two years from the date of closing.
3. The terms of this agreement and the rights of the Purchaser shall not be assignable by the Purchaser to any other party or entity unless prior permission of the Village Board of the Village of Utica is received, and in such event the Purchaser's assignee shall be subject to the same terms and conditions of this agreement as if it were an original party to it.
4. Purchaser agrees that in the event the Purchaser fails to complete any of the above tasks (demolition/removal; construction commencement and/or completion) within the time frames provided herein, Purchaser shall pay to the Village a daily penalty of \$20.00. This penalty can be waived, in whole or in part, by the Village at its sole discretion for good cause shown.

VILLAGE OF UTICA, NEBRASKA

  
\_\_\_\_\_  
PURCHASER

By:

  
\_\_\_\_\_  
CHAIRPERSON, Board of Trustees

## One and Six Year Plan Summary

City/Village: Utica  
Year: 2021

Plan Year	Project No.	Project Location	Project Description	Estimated Cost
One			General Maintenance	

Six	M-579(12)	F Street from Colorado Street to Alvo Road	Replace existing road with a 29' wide, 8" concrete street	\$ 322,000
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**Cost of Six Year Projects \$ 322,000**

**Total For All One Year & Six Year Projects \$ 322,000**

**Projects Completed in 2020:**

The Village completed general maintenance in 2020.

# 2023 MIDWINTER CONFERENCE

## LEAGUE OF NEBRASKA MUNICIPALITIES

Cornhusker Marriott Hotel, Lincoln

February 27-28, 2023



### Delegate Registration

Municipality: \_\_\_\_\_

Name (as you want it to appear on name tag): \_\_\_\_\_

Title: \_\_\_\_\_ Spouse (if attending): \_\_\_\_\_

First League Conference? Yes \_\_\_\_\_ No \_\_\_\_\_

Check # \_\_\_\_\_ enclosed for \$ \_\_\_\_\_ (Advanced payment encouraged)

Billing address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Conference:	Through Feb. 10	After Feb. 10
(Includes electronic handbook; meals are extra)		
Per city/village official, League member	_____ \$395	_____ \$425

Partial conference attendance:	Through Feb. 10	After Feb. 10
(Includes electronic handbook; meals are extra)		
Monday sessions	_____ \$300	_____ \$330
Tuesday morning only	_____ \$150	_____ \$170

Conference Total: \$ \_\_\_\_\_

Meals: (not included in registration fee; indicate number needed by Feb. 10)

Monday Luncheon	_____ \$26
Tuesday Senator Appreciation Luncheon	_____ \$26

Meals Total: \$ \_\_\_\_\_

#### Conference Information

- Preregistration deadline is Feb. 10. Registrations received after this date will incur higher registration costs.
- Advance registrations not cancelled by this date or "no shows" will be billed since the sessions will be recorded and sent to registered delegates.
- If you need special accommodations or equipment at this conference, contact the League office by Feb. 10.

Mail registration and payment to: League of Nebraska Municipalities, 1335 L Street, Lincoln, NE 68508, or fax 402-476-7052

[Click here](#) to register online with a credit card. \*\*\*PLEASE NOTE -- There is a credit card processing fee included for each item.\*\*\*

December 21, 2022



Village of Utica  
466 First Street  
Utica, Nebraska 68456

Re: Invitation to Comment as a Consulting Party  
Proposed 71-foot Telecommunications Tower  
Site Name: NE07 DT UTICA  
1301 Centennial Avenue  
Utica, Seward County, Nebraska 68456  
Lat: 40° 53' 23.29" N Long: 97° 21' 09.53" W  
Terracon Project Number: 41227253

To Whom it May Concern:

On behalf of Celco Partnership and its controlled affiliates doing business as Verizon Wireless, Terracon is writing to invite your comment on the effect of the above-referenced project on historic resources within the project Area of Potential Effects (APE) that are eligible for the National Register of Historic Places. We are requesting your review pursuant to Section 106 of the National Historic Preservation Act, the Advisory Council on Historic Preservation's regulation for compliance with Section 106, and the Nationwide Programmatic Agreement on the Collocation of Wireless Antennas (adopted March 16, 2001), and the Nationwide Programmatic Agreement effective March 7, 2005.

Field assessment for both historic properties and archaeological sites will be conducted, and a determination will be made of the project's direct and indirect effects on eligible properties. Consulting parties are invited to provide information concerning historic or archaeological properties already listed in the National Register or that could be eligible for listing in the National Register.

If you would like to comment on this undertaking, please respond to this letter within 30 days of its receipt. Thank you for your response on this matter. If you have any questions concerning this letter, please do not hesitate to call me at (651) 770-1500. If you wish to respond by email, I may be reached at [jennifer.shepard@terracon.com](mailto:jennifer.shepard@terracon.com).

Sincerely,  
**Terracon Consultants, Inc.**

A handwritten signature in black ink that reads "Jennifer Shepard". The signature is written in a cursive, flowing style.

Jennifer Shepard  
Project Manager

## ORDINANCE NUMBER 785

This ordinance sets zoning regulations for SHOUSES, BARNOMINIUMS AND ANY OTHER NON-CONFORMING HOMES; TINY HOUSES; CONTAINER HOUSING OR STORAGE UNITS; SHORT TERM AND VACATION RENTALS.

### SHOUSES, BARNOMINIUMS OR ANY OTHER NON-CONFORMING HOME

#### DEFINITION:

A residential dwelling constructed as a storage unit and later turning part or all of the structure into a home. Or a structure built to look like a storage building for use as a residence or part residence and part storage/shop.

#### Purpose:

To specifically regulate properties used for homes and storage structures. Structures must have a Special Permit from the Village Board of Trustees and are only permitted in the R-1 and R-2 Residential Districts.

1. All such structures must blend with the local residential settings. Building height can be no taller than other residential buildings.
2. Structures must have poured footings. No pole sheds are allowed.
3. The home portion of the building must be completed within two years of the starting date of the building and occupy at least 50% (Fifty percent) of the entire structure.
4. All present Village Zoning regulations must be followed.
5. All latest International Building Codes must be followed.

### TINY HOUSES:

These homes may only occupy spaces in the present trailer park.

### CONTAINER HOUSING OR STORAGE UNITS:

Container homes or storage units will not be permitted. Any existing storage units are Grand-Fathered in, but no additions will be permitted to them. When they are removed, no other units can take their place.

### SHORT TERM AND VACATION RENTALS:

#### Definition:

A residential property, including a single-family dwelling or a unit in a condominium, cooperative, or time-share, that is rented wholly or partly for a fee for a period not shorter than three consecutive days and not longer than thirty consecutive days.


1. Any structure serving as a short term and/or vacation rental unit may only be occupied by the transient occupant for a period not to exceed 30 days of initial occupation. The property owner may occupy said rental property for an unlimited time frame for residency purposes if not occupied by a vacationing or rental occupant.
2. Structure being used as a short term and/or vacation rental unit must adhere to and meet local Fire and building codes. Code compliance will be enforced by local Law Enforcement.
3. Structure being used as a short term and/or vacation rental unit must adhere to and meet local Health and sanitation standards, including solid or hazardous waste and pollution control. Compliance will be enforced by local Law Enforcement.
4. An emergency contact for the property must be designated throughout the




- existence of the property as a short term and/or vacation rental unit.
5. All properties in the Village of Utica designated as short term and/or vacation rental unit(s) are prohibited from operating in manners deemed obscene and detrimental to the health, safety, and well-being of the residents of the Village.
  6. All properties in the Village of Utica designated as short term and/or vacation rental unit(s) are prohibited from operating as commercial entities for the purpose of storage, selling, trading, distributing, or manufacturing goods and services for profit and other activities deemed detrimental to the health, safety and well-being of the residents of the Village.
  7. Property maintenance issues and repairs will be the responsibility of the property owner.
  8. Noise complaints will be addressed and handled by local law enforcement.
  9. Recreational vehicles, trailers and other means of storage or recreation requiring tow by a motorized vehicle are prohibited from being parked or stored on the premises of the short term and/or vacation rental.
  10. Occupancy of said short term and/or vacation rental unit(s) shall follow the family definition identified in the Utica, Nebraska Zoning Regulations. Maximum occupancy shall be determined by the property owner and agreed upon by the Village Board of Trustees via special permit and public hearing processes.
  11. On-street parking for contracted occupants will be limited to one vehicle per residential property.

Passed this 9<sup>th</sup> day of January, 2023

VILLAGE OF UTICA

By   
Chairperson of the Board

ATTEST:

  
Village Clerk

ORDINANCE NUMBER 786

This ordinance establishes the policy of cats and animal waste in the Village of Utica, Nebraska.

**174.04 CATS**

A) It shall be unlawful for the owner of any cat to permit the animal to run at large at any time on any of the public ways and property or the property of another in the village or to be tethered or staked out in such a manner so as to allow the animal to reach or pass into any public way or property or any property of another.

B) All cats must be kept on your property--Land, house, or vehicle. Any cat running at large may be trapped and taken to the Human Society or to a shelter.

C) Cats need to be licensed so the Village can keep track of them. License fees will be the same as for dogs.

D) A residence may have no more than 3 adult cats over the age of 6 months of age.

**174.05 Animal Waste**

A) Any person having the custody of any dog, cat, or domestic animal, when walking the animal on property not owned by the individual, shall have the responsibility for cleaning up any feces of the animal and disposing of such feces in a garbage receptacle. It shall be the duty of this person to have in such person's possession suitable equipment or materials for the picking up, removal and sanitary disposal of animal feces.

B) The owner of any animal shall have the responsibility of cleaning up the feces of the animal on the owner's property on a frequent enough basis so as not to cause odor beyond the lot line of the owner's property.

Passed this 9<sup>th</sup> day of January 2023

**VILLAGE OF UTICA**

By James E. Swanson  
Chairperson of the Board

ATTEST:

\_\_\_\_\_  
Village Clerk

**ORDINANCE # 787  
WIND ENERGY  
SYSTEMS**

This ordinance establishes policy of wind energy systems in the Village of Utica, Nebraska and associated one-mile planning jurisdiction.

DEFINITIONS:

1. AGGREGATE WIND ENERGY CONVERSION SYSTEM (WECS) PROJECT: A utility grid wind energy conversion system project (WECS) or projects that is / are developed and operated in a coordinated fashion, but which have multiple entities separately owning one (1) or more of the individual WECS(s) within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity, but are also part of the aggregate project.
2. AMBIENT: The sound pressure level exceeded ninety percent (90%) of the time.
3. ANSI: American National Standards Institute.
4. dB(A): The sound pressure level in decibels utilizing the "a" weighted scale defined by ANSI for weighting the frequency spectrum to mimic the human ear.
5. DECIBEL: The unit of measure used to express the magnitude of sound pressure and sound intensity.
6. FALL ZONE: The area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of structural failure. This area is less than the total height of the tower.
7. FEEDER LINE: Any power line that carries electrical power from one (1) or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the project distribution system, in the case of interconnection with the high voltage transmission systems, the point of interconnection shall be the substation serving the wind energy conversion system.
8. IMPACT EASEMENT: An easement or deed restriction, recorded in the office of the Hamilton County, Nebraska Registrar of Deeds, which runs with the land, which is granted to the owner of an industrial use, a confined or intensive animal feeding use, a waste handling facility use, a wind energy conversion system or other use for the period of time that such use shall exist, by the owners of adjoining or neighboring real property in which it is mutually agreed between the grantor and grantee that the grantor shall hold the grantee harmless from odor, smoke, dust, noise, visual or other legal impacts associated with such use on the grantor's property when such use is operated in accordance with the terms of such easement or deed restriction.
9. METEOROLOGICAL TOWER: A temporary tower, base plate, anchors, guy wires, hardware, anemometers, wind direction vanes, booms to hold equipment, data loggers, instrument wiring and any telemetry devices that are used to monitor or transmit wind speed, direction and flow characteristics over a period of time at a given location. For the purpose of this regulation, such towers shall refer only to those whose purpose are to analyze the environmental factors needed to assess the potential to install, construct and operate a WECS project which shall be in place on the premises not more than one (1) year from the date of completion of installation.

10. **MODIFICATION:** Any change to the on-site WECS that materially alters the size, type, capacity or location of the WECS. Like-kind replacement and normal repairs shall not be construed to be a modification.
11. **NET METERING:** The difference between the electricity supplied to a customer over the electric grid system and the electricity generated by the customer's WECS that is fed back into the grid system over a billing period.
12. **NOISE SENSITIVE RECEPTOR:** Any land area, building or facility which could experience interference with its common and normal use due to excess noise levels including, but not limited to, occupied buildings, as herein defined, hotels, motels, outdoor amphitheater, outdoor sports fields, parks, playgrounds, golf courses, water oriented recreation areas, riding stables and cemeteries
13. **OCCUPIED BUILDING:** A residential dwelling, school, hospital, church, public library or other building use for public gathering that is occupied by or used by humans for its intended purpose
14. **ON-SITE WIND ENERGY CONVERSION SYSTEM:** An on-site wind energy system with no tower or one (1) tower, intended to primarily serve the needs of the use on the premises where such system is located. Such system may be connected to the electric grid through net metering, but the ~~primary~~ only other use shall be to generate electricity to serve the needs of the use on the premises where such system is located.
15. **OPERATOR:** The entity responsible for the day-to-day operation and maintenance of any WECS, WECS project of substation, including any third-party subcontractors.
16. **OWNER:** The entity or entities with an equity interest in the WECS(s), including their respective, successors and assigns. Owner does not mean 1) the property owner from whom land is leased for locating the WECS(s) unless the property owner has an equity interest in the WECS(s) or 2) any person holding a security interest in the WECS(s) solely to secure an extension of credit or person foreclosing on such security interest, provided that after foreclosure such person seeks to sell the WECS(s) at the earliest practicable date.
17. **PUBLIC CONSERVATION LANDS:** Land owned in fee title by State or Federal Government agencies and managed specifically for conservation purposes, including but not limited to wildlife management areas, parks, wildlife refuges and waterfowl production areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations and private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
18. **PURE TONE:** A pure tone is defined to exist if the one-third (1/3) octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one-third (1/3) octave bands by five (5) dBA for center frequencies of five hundred (500) Hz and above, by eight (8) dBA for center frequencies between one hundred sixty (160) Hz and four hundred (400) Hz, or by fifteen (15) dBA for center frequencies less than or equal to one hundred and twenty five (125) Hz.
19. **ROTOR:** A component of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.
20. **SCADA TOWER:** A free-standing tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system.
21. **SHADOW FLICKER:** Alternating changes in light intensity caused by the moving blades of a wind energy system which cast a repeating pattern of shadows on the ground and stationary objects, such as a window of a dwelling.

22. **SOUND PRESSURE:** Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of sound measured at the receiver.
23. **SOUND PRESSURE LEVEL:** The sound pressure mapped to a logarithmic scale and reported in decibels (dB).
24. **SUBSTATION:** The apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection to the utility grid transmission lines.
25. **SYSTEM HEIGHT:** The vertical distance from ground level to the tip of the wind generator blade when at its highest point from the ground.
26. **TOWER HEIGHT:** The height above grade of the fixed portion of the tower, excluding the wind generator.
27. **TRANSMISSION LINE:** The electrical power lines that carry voltages of at least sixty-nine thousand volts (69kV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supply electrical energy to retail customers.
28. **UTILITY GRID WIND ENERGY SYSTEM:** A wind energy conversion system which is designed and constructed to provide electricity to an electric utility grid.
29. **WIND ENERGY CONVERSION SYSTEM (WECS):** A system with all necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS tower, electrical components, WECS foundation and transformer, in any.
30. **WIND ENERGY CONVERSION SYSTEM PROJECT (WECS Project):** The WECS(s) and associated support facilities including, but not limited to, roads, transformers, electrical cabling, substations, operation and maintenance buildings, SCADA towers within the boundaries of the project site.
31. **WIND GENERATOR:** The blades and associated mechanical and electrical conversion components mounted on top of a tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.
32. **WIND SITE ASSESSMENT:** An assessment to determine wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.

**ZONING PERMIT REQUIRED:** Issuance of a zoning permit by the Utica Board of Trustees, shall be required prior to construction of any on-site or utility grid WECS. Failure to comply with the permitting requirement or any requirement or standard of this section shall constitute a violation of this Ordinance.

#### **ON-SITE WIND ENERGY CONVERSION SYSTEM REQUIREMENTS:**

**APPLICATION REQUIREMENTS:** Applications for an on-site WECS shall contain a scaled site plan containing the following information together with attachments which provide non-map data indicated.

1. Property lines and physical dimensions of the property where the on-site WECS is proposed, including the right-of-way lines of any public road that is contiguous to the property.
2. Location, dimensions and types of existing major structures on the property and height to the top of the canopy of any tree(s) or other obstruction within three hundred feet (300') of the proposed WECS location.
3. Location of the proposed WECS, foundation, guy wire anchors and associated equipment.
4. Setback distances of the WECS as set forth in this regulation.
5. Location of overhead utility lines.

6. WECS specifications, including manufacturer, model, rotor diameter, tower height, system height, tower type and nameplate generation capacity.
7. Sound level analysis prepared by the manufacturer or qualified engineer.
8. Electrical components in sufficient detail to allow for determination of compliance with applicable electrical codes.
9. Evidence of compliance or non-applicability with the Federal Aviation Administration requirements.
10. If shadow flicker impacts are anticipated beyond the property lines on which the on-site WECS is located, an analysis of shadow flicker impacts on occupied buildings on abutting properties.

**STANDARDS AND REQUIREMENTS:** On-site WECS shall be permitted in the applicable zoning district when in compliance with the following standards and requirements:

1. **SETBACKS:** The setbacks shall be calculated by multiplying the minimum setback requirement number indicated in the table below by the system height and measured from the center of the tower base to the property lines, public road rights-of-way or nearest wall of an occupied building. In no event shall the setbacks be less than the minimum setbacks required in the applicable zoning district, except that guy wire anchors shall have a minimum setback from property lines of ten (10) feet.

MINIMUM SETBACK REQUIREMENTS			
From occupied buildings on the same premises as the WECS	From occupied buildings on abutting properties	From property lines and utility lines	From public road rights-of-way
0	1.1	1.1	1.1

2. **SYSTEM HEIGHT:** The maximum system height shall be forty (40) feet above the highest tree canopy of other obstruction within three hundred feet (300') of the WECS, provided that no system height shall exceed one hundred twenty feet (120'), except for any limitations of Section 420 of this Ordinance, which is the AHO, Airport Hazard Overlay District.
3. **SOUND LEVEL:** The on-site WECS shall not exceed fifty (50) decibels or five (5) decibels above the ambient sound level, whichever is less, using the A scale (dBA), as measured at the property lines, except during short-term events such as severe wind storms and utility outages.
4. **SHADOW FLICKER:** The on-site WECS shall be sited in a manner that does not result in shadow flicker impacts more than thirty (30) hours per year on any occupied building on abutting properties. Where a complaint is made regarding compliance with this limitation, the complainant shall provide documentation of the alleged violation to the City.
5. **SIGNS:** There shall be no signs or logos of any type allowed in the WECS tower or wind generator with the exception of warning signs and manufacturer identification.
6. **AVIATION:** Any on-site WECS proposed near an airport shall comply with applicable Federal Aviation Administration regulations.
7. **VISUAL IMPACTS:**
  - A. Screening of ground mounted electrical and control equipment from public roads and occupied buildings on abutting properties shall be provided by means of fencing and /or landscaping or a combination thereof.
  - B. The color of the on-site WECS shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends with the surrounding environment. Approved colors shall include white, off-white or gray or such other color that the applicant can demonstrate will blend with the surrounding environment and the sky.
  - C. The on-site WECS shall not be artificially lit in any manner unless lighting is required by the Federal Aviation Administration, in which case shall provide a copy of the FAA determination and the

required markings and /or lights. Red lights shall be used during nighttime illumination to reduce impacts on abutting properties.

8. **ACCESS:** The WECS tower shall be designed and installed so as not to provide step bolts, ladders or other means of access for a minimum height of eight feet (8') from ground level and the applicant shall provided evidence as to how all ground mounted equipment shall be secured to prevent unauthorized access.
9. **DESIGN SAFETY:** On-site WECS(s) shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI) and the National Electrical Commission (NEC). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (UL), Det Norske Veritas (DNV), Germanischer Lloyd Wind Energie (GL), or an equivalent third party. Further, the applicant shall provide certification by a Professional Engineer, licensed in the State of Nebraska, that the WECS foundation and tower design is within accepted safety and design standards for the local soil and climate conditions. Such certification may be provided by the manufacturer of the WECS.
10. **CONTROLS AND BRAKES:** Each WECS shall be equipped with a redundant braking system, which may include aerodynamic overspeed controls (variable pitch, tip and / or other similar system and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection. Certification of compliance with this requirement shall be provided by the manufacturer.
11. **CODE COMPLIANCE:** On-site WECS(s) shall comply with the electrical codes applicable in the City and / or the National Electrical Code.
12. **UTILITY CONNECTION:** If the on-site WECS is to be connected to the utility grid, the applicant shall submit written verification that the utility serving the site of the proposed WECS has been notified and that the proposed interconnection complies with the requirements of said utility.
13. **ABANDONMENT:**
  - A. At such time that an on-site WECS is scheduled to be abandoned or discontinued, the owner of said WECS shall notify the Zoning Administrator of the proposed date of abandonment or discontinuance of operation.
  - B. Upon abandonment or discontinuation of use, the owner of the on-site WECS shall physically dismantle all above ground components of the WECS within ninety (90) days from the date of abandonment or discontinuation of use.
  - C. In the event that an owner of an on-site WECS fails to give notice of abandonment or discontinuation of use, the WECS shall be considered to abandoned or discontinued if the system is out-of-service for a twelve (12) consecutive months. After such twelve (12) consecutive months the Zoning Administrator shall issue a written Notice of Abandonment by certified mail to the owner of the WECS at the address indicated for the site of the WECS in the County Treasurers Office. The owner of the WECS shall have the right to respond to the Notice of Abandonment within thirty (30) days from the date of receipt of such notice to present evidence that the WECS has not been abandoned or discontinued. The Zoning Administrator shall review any such response to determine if the WECS has been abandoned or discontinued. If it is determined that said WECS has not been abandoned or discontinued, the Notice of Abandonment shall be withdrawn and notice of same shall be provided to the owner of said WECS. If, after review of the owner's response, it is determined that said WECS has been abandoned or discontinued, notice of such finding shall be provided by certified mail to the owner of the WECS.

If the owner of said WECS fails to respond to the Notice of Abandonment or of, after review of any response from the owner, the Zoning Administrator determines that the WECS has been abandoned or discontinued for twelve (12) consecutive months, the owner shall have ninety (90) days from the date of receipt of such notice to dismantle all above ground components of said WECS. If the owner of said WECS fails to dismantle said WECS within the prescribed time period, such shall be considered a violation of the Ordinance and shall be subject to the penalties set forth in Section 1102 of this Ordinance.

14. **PRIOR EXISTING USES:** On-site WECS(s) installed prior to the effective date of these regulations shall be exempt from the requirements of these regulations, except when modification of the WECS is proposed. Any on-site WECS which was abandoned or the use of which has been discontinued for a period of twelve (12) consecutive months prior to the effective date of these regulations shall be subject to the notice and dismantling requirements set forth in Item 13 immediately above.

**523.05 UTILITY GRID WIND ENERGY CONVERSION SYSTEM REQUIREMENTS:**

**APPLICATION REQUIREMENTS:**

**PRELIMINARY PROJECT APPLICATION:** At the option of the applicant, a preliminary project application may be filed. Such application shall be intended to consider the proposed project from a local land use perspective without submission of the required studies, detailed site plan and formal details of the project. Such application shall place local citizens, neighboring property owners and the general public on notice that a property or series of properties is under consideration for a utility grid wind energy conversion system project and shall give the applicant some awareness of the potential issues associated with the proposed project without having to incur all of the costs associated with a Final Project Application.

The process for review and action on any Preliminary Project Application shall be the same as prescribed for a conditional use application as set forth in Article 7 of this Ordinance.

Action to approve any Preliminary Project does not indicate a final approval of the proposed project, but shall be interpreted to mean that such project may be approved in final form after the studies required in the Final Project Application have been completed and effective measures have been implemented to avoid or minimize impacts based on the wind energy facilities.

An applicant for a utility grid WECS project may, at their option, skip the preliminary project application process and proceed directly to a Final Project Application.

**PRELIMINARY PROJECT APPLICATION REQUIREMENTS:** The following mapped information and other data and exhibits shall be required in a Preliminary Project Application:

1. The name(s) of the proposed owners of the utility grid WECS project, the names of the proposed operators of said WECS project, their respective business structures together with evidence of the financial capability of the proposed owners and operators to successfully implement, operate and maintain the proposed project.
2. A general site plan of the project area indicating:
  - A. The proposed boundaries of the property or properties to be included in the project.
  - B. The probable number, tower heights, diameter of rotors and location of such towers.
  - C. The public roadways included in the project boundaries.
  - D. The location of occupied buildings within and abutting the proposed project boundaries.
  - E. The proposed location of any meteorological tower(s) to be constructed to evaluate the proposed project area.
3. Computer generated visual simulations, in color, showing the probable WECS towers, generators and rotors from at least four (4) viewable angles on the perimeter of the proposed project boundaries.

**PRELIMINARY PROJECT APPLICATION REVIEW:** In reviewing and acting on a preliminary utility grid wind energy conversion system project proposal, the Planning Commission and City Council shall consider the following:



1. The likelihood of the proposed project meeting or exceeding the minimum standards and requirements set forth under the Final Project Application section of this regulation. The applicant may submit a written statement or additional documentation indicating that the proposed project will comply with such final application standards and requirements.
2. With regard to visual impacts of the proposed project and the typical human reaction of "not in my back yard", the Planning Commission shall consider the historic impacts, or lack thereof, of the development of previously popular television reception towers and antennae, satellite dishes, and the current impacts, or lack thereof, of cellular and other communication towers, pivot irrigation systems and electrical transmission towers and lines when considering whether the potential visual impacts of the proposed WECS project on neighboring properties would be any different or less acceptable than the cellular and other communications towers, pivot irrigation systems and electrical transmission towers and line which already exist in the City.
3. The particular issues of concern with regard to final action on the proposed utility grid WECS project.

**FINAL PROJECT APPLICATION:** Application for a final Utility Grid WECS Project approval shall include the following information:

1. The name(s), address(es) and telephone number(s) of the project applicant(s).
2. The name, address and telephone number of the project owner.
3. The legal description and address of the project.
4. A written narrative describing the proposed Utility Grid WECS Project, including an overview of the project, the generating capacity of the WECS Project, the number, type, height or range of heights of the wind turbines to be constructed including their generating capacity, dimensions and respective manufacturers and a description of ancillary buildings, structures and facilities.
5. Affidavit(s) or similar evidence of agreement between the property owner(s) and the WECS Project owner or operator demonstrating that the WECS Project owner or operator has the permission of the property owner(s) to apply for the necessary permits for construction and operation of the WECS Project.
6. A scaled site plan map or maps of the proposed Utility Grid WECS Project indicating:
  - A. The boundaries of the proposed WECS Project indicating all properties within and adjacent to such boundaries.
  - B. The location of each wind turbine together with setback distances from occupied buildings, utility lines, and public roads.
  - C. The location of public roads within and bordering the proposed WECS Project together with access roads and turnout locations proposed within the project.
  - D. The location of all proposed substations and the location of electrical cabling within the project area.
  - E. The location, size, height and type of all ancillary equipment, buildings and structures proposed within the project area.
7. A decommissioning plan complying with the requirements of this regulation.
8. A shadow flicker analysis in accordance with the requirements of this regulation.
9. Evidence of notification of the owners / operators of all existing fixed broadcast, retransmission or reception antennae for radio, television, wireless telephone or other communication systems within five (5) miles of the proposed utility grid WECS project boundaries and an analysis of potential electromagnetic interference.

10. Environmental Analysis in accordance with the requirements of this regulation.

**STANDARDS AND REQUIREMENTS:** Utility Grid WECS projects may be approved as a condition use / special exception in the applicable zoning district when in compliance with the following standards and requirements:

1. **SETBACKS:** The setbacks shall be calculated by multiplying the minimum setback requirement number indicated in the table below by the system height and measured from the center of the tower base to property lines, public road right-of-way lines or the nearest wall of an occupied building. In no event shall the setbacks be less than the minimum setbacks required in the applicable zoning district.

<b>MINIMUM SETBACK REQUIREMENTS FOR WIND ENERGY CONVERSION TOWERS</b>			
From occupied buildings on the same premises as the WECS	From occupied buildings on abutting properties	From property lines and utility lines	From public road rights-of-way
0	4	3 or ¼ mile, whichever is less	3 or ¼ mile, whichever is less

In the event any owner of abutting property shall grant an impact easement to the owner of the WECS project, the setback from the boundaries of the abutting owner's property and / or occupied buildings thereon shall be as set forth in said impact easement.

2. **SYSTEM HEIGHT:** No limitation.

3. **SOUND LEVEL:**

- A. The utility grid WECS sound levels, when in operation, shall not exceed thirty-five (35) decibels, or the ambient sound pressure level plus five (5) dBA, whichever is greater, measured at any occupied building or noise sensitive receptors within the project boundaries and on non-leased lands within the project boundaries and on lands within one (1) mile of the project boundaries. In the event audible noise from the operation of the WECS contains a pure steady tone, the maximum sound level shall be reduced by five (5) dBA.
- B. Prior to initiation of construction on any utility grid WECS project, a survey and study of ambient sound levels shall be conducted by a qualified engineer for all occupied buildings or noise sensitive receptors within the project boundaries and on non-leased lands within the project boundaries and on lands within one (1) mile of the project boundaries. The duration of ambient sound levels measurements shall be a minimum of ten (10) continuous minutes at each location and the duration shall include at least six (6) minutes that are not affected by transient, non-natural sources. Such measurements shall be taken on a weekday and at four (4) to six (6) feet above the ground and at least fifteen (15) feet from any reflective surface. Ambient sound levels may be performed when wind velocities are sufficient to allow wind turbine operation, provided that the wind velocity shall not exceed thirty (30) mph at the measurement location. Ambient sound level shall be expressed in terms of the whole number sound pressure level in dBA, which is exceeded for more than five (5) minutes per hour.
- C. As part of a final conditional use application, the applicant shall have prepared and submit for review a sound level study and report, prepared by a qualified engineer, which provides modeling and analysis that will confirm that the utility grid WECS project will not exceed the maximum permitted sound pressure levels set forth herein. Modeling and analysis shall conform to IEC-61400 and ISO 9613.

4. **SHADOW FLICKER:** The utility grid WECS towers shall be sited in a manner that does not result in shadow flicker impacts more than thirty (30) hours per year on any occupied building or noise sensitive receptor within one-half mile of any wind turbine. The applicant shall provide an analysis which shall identify the location(s) of shadow flicker for each wind turbine from sun-rise to sun-set over the course of a year which would impact occupied buildings or noise sensitive receptor within one-half mile of such wind turbines to verify that the standard set forth herein shall be complied with.
5. **SIGNS:** There shall be no signs or logos of any type allowed in the WECS tower or wind generator with the exception of warning signs and manufacturer identification. Visible high voltage warning signs shall be placed on all pad-mounted transformers and substations. Emergency contact signs shall be placed at or near

the project main operation and maintenance building and the primary entrance to the project area. The sign at the primary entrance shall also warn of the potential for falling ice.

6. **AVIATION:** Any utility grid WECS project proposed near an airport shall comply with applicable Federal Aviation Administration regulations.
7. **VISUAL IMPACTS:**
  - A. All WECS towers shall be of monopole design.
  - B. The color of the on-site WECS shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends with the surrounding environment. Approved colors shall include white, off-white or gray or such other color that the applicant can demonstrate will blend with the surrounding environment and the sky.
  - C. The on-site WECS shall not be artificially lit in any manner unless lighting is required by the Federal Aviation Administration, in which case shall provide a copy of the FAA determination and the required markings and /or lights. Red lights shall be used during nighttime illumination to reduce impacts on abutting properties.
8. **ACCESS:** Wind turbine towers shall not be climbable up to fifteen (15) feet above the ground surface and all access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.
9. **DESIGN SAFETY:** Utility grid WECS(s) shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI) and the National Electrical Commission (NEC). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (UL), Det Norske Veritas (DNV), Germanischer Lloyd Wind Energie (GL), or an equivalent third party. Further, the applicant shall provide certification by a Professional Engineer, licensed in the State of Nebraska, that the WECS foundation and tower design is within accepted safety and design standards for the local soil and climate conditions. Such certification may be provided by the manufacturer of the WECS.
10. **CONTROLS AND BRAKES:** Each WECS shall be equipped with a redundant braking system, which may include aerodynamic overspeed controls (variable pitch, tip and / or other similar system and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection. Certification of compliance with this requirement shall be provided by the manufacturer.
11. **CODE COMPLIANCE:** All WECS(s) shall comply with the electrical codes applicable in the County and / or applicable State codes and / or the National Electrical Code.
12. **ELECTROMAGNETIC INTERFERENCE:** The project owner shall notify the owners / operators of all existing fixed broadcast, retransmission or reception antennae for radio, television, wireless telephone or other communication systems within five (5) miles of the proposed utility grid WECS project boundaries upon application. No utility grid WECS project shall be located where its proximity to existing fixed broadcast, retransmission or reception antennae for radio, television, wireless telephone or other communication system would produce electromagnetic interference with signal transmission or reception unless the applicant shall provide a replacement signal to the affected party(s) that will restore the transmission or reception to at least the level present before operation of the WECS project.
13. **ENVIRONMENTAL IMPACT:** The applicant shall have a third party, qualified professional conduct and analysis to identify and assess any potential impacts on wildlife and endangered species and public conservation lands, with particular emphasis on areas where birds or bats are highly concentrated, significant bird migration flyways and areas that have landscape features known to attract large numbers of raptors.
14. **DECOMMISSION PLAN:** The applicant shall submit a decommissioning plan, which shall include at a minimum:

- A. The anticipated life of the project,
  - B. The estimated decommissioning costs of removing all above ground facilities and underground improvements to a depth of three (3) feet, net of salvage value, in current dollars,
  - C. The method of ensuring that funds will be available for decommissioning,
  - D. The anticipated manner in which the project will be decommissioned, and
  - E. The time period in which the decommissioning shall be completed.
15. **PUBLIC ROAD IMPACTS:** The applicant shall, in coordination with representatives from the City and the County and other appropriate jurisdictions, conduct a pre-construction survey of road and bridge conditions which shall include photographs and written agreement documenting the condition of the public roads, to determine all county, township or municipal roads or streets to be used for the purposes of transporting WECS, substation parts, concrete and *lor* equipment for construction, operation and maintenance of the WECS and to determine all applicable weight and size permits from the impacted jurisdictions prior to construction. The owner of the WECS shall be responsible for restoring the roads, streets and bridges to pre-construction conditions where the impacts on such roads, streets and bridges is beyond normal wear under pre-existing conditions.
16. **EMERGENCY SERVICES:** The applicant shall provide a copy of the project description and site plan to the local fire department and rescue service having jurisdiction over the project area and shall coordinate with such local entities in the development of an emergency response plan.
17. **PUBLIC INQUIRIES AND COMPLAINTS:** The owner and operator of the utility grid WECS project shall maintain a publicly available telephone number and identify a responsible person or position for the public to contact with inquiries or complaints throughout the life the project. Said owner and operator shall make a reasonable effort to respond to the public's inquiries and complaints and shall maintain a record of such inquiries and complaints, together with actions taken and dates thereof and shall make such records available to the Zoning Administrator upon request.

All ordinances and parts of ordinances passed and approved prior to the passage and approval of this ordinance and in conflict herewith are hereby repealed.

Passed and approved this 9<sup>th</sup> day January, 2023

VILLAGE OF UTICA

By James E. Swanson  
Chairman of the Board

ATTEST:

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Village Clerk

# ORDINANCE # 788

AN ORDINANCE to revise all the ordinances of the Village by adopting the Nebraska Basic Code of Ordinances, 2022, to repeal prior ordinances; To require filings; and to provide an effective date.

BE IT ORDAINED BY THE CHAIRPERSON AND THE 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 City/Village Officials
- 32. Departments, Boards, and Commissions
- 33. General Provisions
- 34. Elections
- 35. Finance and Revenue

## **TITLE V: PUBLIC WORKS**

- 50. General Provisions

## **TITLE VII: TRAFFIC CODE**

- 70. General Provisions
- 71. Traffic Regulations
- 72. Parking Regulations

## **TITLE IX: GENERAL REGULATIONS**

- 90. Leisure and Recreation
- 91. Health and Safety
- 92. Public Ways and Property
- 93. Animals

## **TITLE XI: BUSINESS REGULATIONS**

- 110. Business Licensing
- 111. Alcoholic Beverages
- 112. Tobacco and Cigarettes
- 113. Sales and Advertising

## **TITLE XIII: GENERAL OFFENSES**

- 130. Property Offenses
- 131. Offenses Against Public Order
- 132. Offenses Against Public Justice and Administration
- 133. Offenses Against Public Health and Safety
- 134. Offenses Against Public Morals

## **TITLE XV: LAND USAGE**

- 150. Building Regulations

## **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 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 City/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 Clerk shall file a copy of the Code of Ordinances with the County Court.

Section 6. This ordinance shall take effect from and after its passage, approval, and publication according to law.

Passed and approved January 9, 2023.

  
Chairperson

[SEAL]

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City/Village Clerk

RESOLUTION # 2023-1

WHEREAS, the Board of Trustees of the Village of Utica, Nebraska may by resolution establish a policy for "Tapping into the Village of Utica water or sewer main lines" and affix the amount of fees charged, and

WHEREAS, it is deemed advisable to establish and affix fees for such applications;

NOW, THEREFORE, BE IT RESOLVED BY THE CHAIRPERSON AND THE VILLAGE BOARD OF TRUSTEES OF UTICA, NEBRASKA THAT:

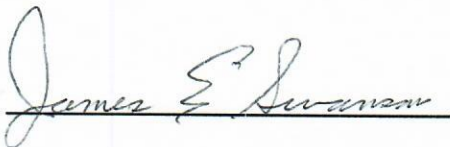
The amount of fees for tapping into water or sewer main lines shall henceforth be and are hereby fixed as follows to be in full force and effective on and after January 9, 2023.

Water tap fee: \$100 plus the cost of water meter and necessary materials at the time of the tap and any additional labor provided by the Village.

Sewer tap fee: \$100 plus any necessary materials at the time of the tap and any additional labor provided by the Village.

All previous resolutions in conflict with this resolution are hereby revoked.

Passed and approved this 9<sup>th</sup> day of January, 2023



Chairperson

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Village Clerk