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CHAPTER 7 – PUBLIC UTILITIES

Article 1 – Utilities Generally

SECTION 7-101: VILLAGE POWERS; RATE SETTING

A. The Village currently owns and operates a water supply and distribution system and a sanitary sewer disposal and treatment system. The Village has the right and power to tax assets and collect payment from its residents for use of the water supplied to them by the water system and for use of the sewer system. The Village Board is authorized to establish by ordinance such rates for water and sewer service as may be deemed fair and reasonable. The Village Board may classify the customers of the Sewer Department for the purpose of sewer use fees, provided that such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers. All such rates, taxes, or rent shall be a lien upon the premises or real estate for which the same is used or supplied and such rates, taxes, or rent shall be collected and paid and such lien enforced in such manner as the board shall by ordinance direct and provide. All such rates, taxes, or rent shall be kept on file in the office of the village clerk for public inspection.

B. The utility superintendent shall have the direct management and control of the Water and Sewer Departments and shall have the authority to adopt rules and regulations for the sanitary and efficient management of the departments subject to the supervision and review of the Village Board.

(Neb. Rev. Stat. §§17-538, 17-542, 17-925.02, 18-509)

SECTION 7-102: MANDATORY USE OF VILLAGE SERVICES

All residents of the Village shall be required to subscribe to village utility services, which shall include electricity that may be supplied by a non-municipal power company. Said residents shall be subject to the assessment and payment of charges for such utility services, as set from time to time by the Village Board. (Neb. Rev. Stat. §17-532)

SECTION 7-103: CONSUMER'S APPLICATION; SERVICE DEPOSIT

A. Every person desiring utility services must make application therefor to the village clerk, who shall require the applicant to make a service deposit for water and sewer service in such amount as set by resolution by the Village Board and kept on file at the village office. The deposit will be returned to the applicant upon permanent discontinuation of utility services if there are no outstanding water or sewer fees or applied to any outstanding water and sewer fees. At the time any service deposit is returned to the consumer, the Village will not pay any interest that may have accrued on such amount.

B. The application shall be supplemented by any plans, specifications, or other

information considered pertinent in the judgment of the village clerk. Utility services shall not be supplied to any house or private service pipe except upon the order of the utility superintendent.

C. No applicant for the services of a public or private utility company furnishing water, natural gas, or electricity in this village shall be denied service because of unpaid bills for similar service which are not collectible at law because of statutes of limitations or discharge in bankruptcy proceedings.
(Neb. Rev. Stat. §§17-537, 17-925.02, 19-2701, 70-1601)

SECTION 7-104: SERVICE TO NONRESIDENTS

A. Any person whose premises are located outside the corporate limits of the Village and who desires to connect to village water and sewer service shall file a written application with the village clerk for a permit for such connection, setting forth the name of the owner, occupant or lessee of the premises, the use to which the premises are devoted, and such other information as the Village Board may require. The entire cost of pipe and other installation charges shall be paid by such consumer. The extension of commercial mains into unsupplied territory within the corporate limits may be made by means of water extension districts. Nothing herein shall be construed to obligate the Village to provide water and sewer service to nonresidents.

B. For the furnishing of water beyond its corporate limits, the Village may establish rates in amounts up to twice the rate of resident customers; provided, the contracts and rates made for the nonresidents shall be uniform so far as they affect the users of equal amounts of water under such contracts. The Village Board shall have the power to set nonresident rates and charges by ordinance, which shall be kept on file in the office of the village clerk.
(Neb. Rev. Stat. §§17-537, 18-508, 19-2701)

SECTION 7-105: SERVICE CONTRACT; NOT TRANSFERABLE

A. The rules, regulations, and rates set forth in this chapter shall be considered a part of every application hereafter made for utility services and shall be considered a part of the contract between the Village and every consumer now or hereafter served.

B. The making of application on the part of any applicant for the use of village utilities by a new consumer thereof and the furnishing of utility services to said consumer shall constitute a contract between the consumer and the Village, 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 Village Board may hereafter adopt, the utility superintendent may cut off or disconnect the water service from the building or premises of such violation. No further connection for service to said building or premises shall again be made save or except by order of said superintendent.

C. Contracts for utility services 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 sell, dispose of, or move from the premises where service is furnished or if the said premises are destroyed by fire or other casualty, he or she shall at once inform the village clerk, who shall cause the utility services to be discontinued at the said premises. If the consumer should fail to give such notice, he or she shall be charged for utility services monthly until the Village is otherwise advised of such circumstances.

(Neb. Rev. Stat. §17-537)

SECTION 7-106: BILLING AND COLLECTIONS; DELINQUENCY

A. Joint water and sewer bills shall be due and payable monthly at the office of the village clerk. Bills shall be issued on or about the last day of each month and shall be due and payable by the 15th day of the following month. Bills not paid by the 15th day of each month shall incur a late fee as set by resolution by the Village Board.

B. Upon being deemed to be delinquent, the village clerk shall give a written notice to the customer of such delinquency and shall demand payment immediately. In the event that the bill is not paid within seven days after the sending of said notice, it shall be discretionary with the Village Board to cut off service in compliance with Section 7-107. The board at its regular monthly meetings shall determine dates of discontinuation of service for delinquent accounts. A reconnection fee shall be assessed upon restoration of service as set by resolution by the Village Board and kept on file in the office of the village clerk. All amounts due shall be paid prior to reconnection.

(Neb. Rev. Stat. §§17-538, 17-542)

SECTION 7-107: DISCONNECTION; NOTICE; PROCEDURE

A. No village utility shall discontinue service to any domestic subscriber for nonpayment of any past due account unless such utility shall first give written notice by first-class mail or in person to any subscriber whose service is proposed to be terminated. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days after notice is sent or given. Holidays and weekends shall be excluded from the seven days.

B. Each utility subject to subsection (A) shall establish a third-party notice procedure for the notification of a designated third party of any proposed discontinuance of service and shall advise its subscribers, including new subscribers, of the availability of such procedures.

C. If any subscriber has previously been identified to the utility as a recipient of assistance from the Department of Social Services, such notice shall be by certified mail to the subscriber and to Social Services.

D. The notice required by subsection (A) above shall contain the following information:

1. The reason for the proposed disconnection;
2. A statement of intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the utility regarding payment of the bill;
3. The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
4. The name, address, and telephone number of the utility's employee or department to whom the domestic subscriber may address any inquiry or complaint;
5. The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection, as provided in subsection (E) below;
6. A statement that the utility may not disconnect service pending the conclusion of the conference;
7. A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that a domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the utility within five days of receiving notice under this section and will prevent the disconnection of the utility's service for a period of thirty days from such filing. Only one postponement of disconnection shall be allowed under this subdivision for each incidence of nonpayment of any past-due account;
8. The cost that will be borne by the domestic subscriber for restoration of service;
9. A statement that the domestic subscriber may arrange with the utility for an installment payment plan;
10. A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and
11. Any additional information not inconsistent with this section which has

received prior approval from the Village Board.

E. A domestic subscriber may request a conference in regard to any dispute over a proposed discontinuance of service before the Village Board, which shall hear and decide all matters disputed by a domestic subscriber. The subjects to be heard shall include matters relating to a disputed bill.

F. This section shall not apply to any disconnections or interruptions of service made necessary by the Village for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.

(Neb. Rev. Stat. §§70-1605 through 70-1608)

SECTION 7-108: LIEN

In addition to all other remedies, if a consumer shall for any reason remain indebted to the Village for utility services furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent utility rent which is hereby declared to be a lien upon the real estate for which the same was used. The village clerk shall notify in writing all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of utility charges. It shall be the duty of the village clerk to report monthly to the Village Board a list of all unpaid accounts due for utilities which are more than 60 days delinquent, together with a description of the premises upon which the same were used. The report shall be examined and if approved by the board, shall be certified by the village clerk to

the county clerk to be collected as a special tax in the manner provided by law. (Neb. Rev. Stat. §§17-538, 17-925.01, 18-503)

SECTION 7-109: DIVERSION OF SERVICES; UNLAWFUL ACTS

A. Any person who connects any instrument, device, or contrivance with any wire supplying or intended to supply electricity or electric current or connects any pipe or conduit supplying gas or water, without the knowledge and consent of the supplier of such products, in such manner that any portion thereof may be supplied to any instrument by or at which electricity, electric current, gas, or water may be consumed without passing through the meter made or provided for measuring or registering the amount or quantity thereof passing through it, and any person who knowingly uses or knowingly permits the use of electricity, electric current, gas, or water obtained unlawfully pursuant to this section, shall be deemed guilty of an offense.

B. If water meters are not in use in the Village, any person who connects any pipe or conduit supplying water without the knowledge and consent of the supplier of such product in such manner that any portion thereof may be supplied to any instrument by or at which water may be consumed without the knowledge and consent of the supplier, and any person who knowingly uses or knowingly permits the use of water obtained unlawfully pursuant to this section, shall be deemed guilty of

an offense.

C. Any person who reconnects electrical, gas, or water service without the knowledge and consent of the supplier of such service if the service has been disconnected pursuant to Neb. Rev. Stat. §§70-1601 to 70-1615 or Section 7-107 of this code shall be deemed guilty of an offense.

D. Any person who willfully injures, alters, or by any instrument, device, or con-

trivance in any manner interferes with or obstructs the action or operation of any meter made or provided for measuring or registering the amount or quantity of electricity, electric current, gas, or water passing through it without the knowledge and consent of the supplier of the electricity, electric current, gas, or water passing or intended to pass through such meter shall be deemed guilty of an offense.

E. Proof of the existence of any wire, pipe, or conduit connection or reconnection or of any injury, alteration, interference, or obstruction of a meter is *prima facie* evidence of the guilt of the person in possession of the premises where such connection, reconnection, injury, alteration, interference, or obstruction is proved to exist.

(Neb. Rev. Stat. §28-515.02)

SECTION 7-110: DIVERSION OF SERVICES; PENALTY

A. The Village may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts bypassing, tampering, or unauthorized metering when such act results in damages to a village utility. The Village may bring a civil action for damages pursuant to this section against any person receiving the benefit of utility service through means of bypassing, tampering, or unauthorized metering.

B. In any civil action brought pursuant to this section, the Village shall be entitled, upon proof of willful or intentional bypassing, tampering, or unauthorized metering, to recover as damages:

1. The amount of actual damage or loss if such amount may be reasonably calculated; or
2. Liquidation damages of \$750.00 if the amount of actual damage or loss cannot be reasonably calculated.

C. In addition to damage or loss under subdivision (B)(1) or (2), the Village may recover all reasonable expenses and costs incurred on account of the bypassing, tampering, or unauthorized metering, including but not limited to disconnection, reconnection, service calls, equipment, costs of the suit, and reasonable attorney's fees in cases within the scope of Neb. Rev. Stat. §25-1801.

D. There shall be a rebuttable presumption that a tenant or occupant at any premises where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the tenant or occupant (1) had access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering is proven to exist and (2) was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.

E. There shall be a rebuttable presumption that a customer at any premises

where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the customer controlled access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering was proven to exist.

F. The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws, and the remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common law remedies.

(Neb. Rev. Stat. §§25-21,276 through 25-21,278)

Article 2 – Water Department

SECTION 7-201: OPERATION AND FUNDING

A. The Village owns and operates the Water Department through the utility superintendent. The Village Board, for the purpose of defraying the cost of the care, management, and maintenance of the 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 village treasurer.

B. The utility superintendent shall have the direct management and control of the Water Department and shall faithfully carry out the duties of his or her office. The 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 Village Board. The said board 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 village clerk for public inspection during office hours.

(Neb. Rev. Stat. §§17-531, 17-534, 19-1305)

SECTION 7-202: DEFINITIONS

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

"Main" is hereby defined to be 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 Village.

"Separate premises" is hereby defined to be more than one consumer procuring water from the same service or supply pipe. The second premises may be a separate dwelling, apartment, building, or structure used for a separate business.

"Service pipe" is hereby defined to be 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 premises where the water is to be dispersed.

"Supply pipe" is hereby defined to be any pipe tapped into a main and extending from there to a point at or near the lot line of the consumer's premises where the shut-off, stop box, or curb cock is located.

SECTION 7-203: CONNECTION TO WATER SYSTEM

A. The Village 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. All persons whose property is

within 300 feet of a main shall be required, upon notice by the Village Board, to hook up with the village water system; provided, no person shall be allowed to hook up a mechanical heat pump device or other prohibited mechanical device with the village water system.

B. The Village may furnish water service to persons within its corporate limits whose premises are not within 300 feet of the said main; provided, the entire cost of pipe and other installation charges shall be paid by such consumer. Nothing herein shall be construed to obligate the Village to provide water service to persons whose property line is not within 300 feet of the said main.

C. Each primary structure hereafter erected shall be connected with the water system at the time of its erection. In the event any owner, occupant, or lessee shall neglect, fail, or refuse to make such connection within a period of ten days after the notice has been given to do so by regular mail or by publication in a newspaper in or of general circulation in the Village, the Village Board shall have the power to cause the same to be done, to assess the cost thereof against the property, and to collect the water bills in the manner provided for collection of other special taxes or assessments or to collect in the manner provided for the collection of water bills as provided herein.

(Neb. Rev. Stat. §17-532)

D. Private wells previously constructed and operating prior to the Village's establishment of its water system shall be permitted to operate, providing that such wells comply with other existing, applicable ordinances and do not violate applicable state laws or regulations promulgated by the Nebraska Department of Health and Human Services.

(Neb. Rev. Stat. §17-532)

SECTION 7-204: PROHIBITION OF LEAD PIPES, SOLDER AND FLUX

Any pipe, solders, or flux used in the installation or repair of any residential or nonresidential building which is connected to the public water supply system shall be lead-free. For purposes of this section, "lead-free" shall mean (A) solders and flux, not more than .2% lead and (B) pipe and pipe fittings, not more than .25% lead. (Neb. Rev. Stat. §71-5301)

SECTION 7-205: INSTALLATION; EXPENSE

A. The Village shall be the owner of any water mains and shall maintain and replace the same at no cost to the applicant or user. The Village shall pay the cost of tapping the water main and providing fixtures and labor up to and including the stop box at the lot line of the customer. The utility superintendent in his or her discretion may direct the customer to hire a licensed plumber to tap the main. The customer shall, at his or her own expense, bring water service from the main up to and upon his or her own premises.

B. If commercial mains are not laid along the street abutting applicant's property and if a water main district is not created or extended, applicant may, at his or her own expense under the approval and direction of the utility superintendent, pay the costs of trenching, pipe installation, labor, and attachments necessary to bring water service from the nearest commercial main to applicant's premises.
(Neb. Rev. Stat. §17-542)

SECTION 7-206: PLUMBER'S LIABILITY

A. It shall be unlawful for any plumber or pipefitter to do any work upon any of the pipes or appurtenances of the system of waterworks or to make any connection with or extension of the supply pipes of any consumer taking water from the said system until such plumber or pipefitter shall have first procured a state license.

B. All work by plumbers shall be done in the manner required by the utility superintendent and shall be at all times subject to his or her inspection and approval. Plumbers who connect with the public water system shall be held responsible for any damage to the pipes or the public ways and property and shall restore all excavated streets to the complete satisfaction of the superintendent. It shall be unlawful to cover or conceal willfully any defective or unsatisfactory work.
(Neb. Rev. Stat. §17-537)

SECTION 7-207: INSTALLATION OR REPAIR PROCEDURE

A. In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe or making repairs, the paving and earth must be removed and deposited in a manner that will be least inconvenient 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.

B. 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 48 hours or more, the utility superintendent shall have the duty to finish or correct the work and all expenses so incurred shall be charged to the consumer.

C. All installations or repairs of pipes may require an inspection by the utility superintendent or a competent plumber when the connections or repairs are completed and before the pipes are covered. It is the customer's responsibility to notify the superintendent at the time the work is ready for inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications prescribed for such installation by the superintendent; provided, the said rules, regulations, and specifications have been reviewed and approved by the Village Board.
(Neb. Rev. Stat. §§17-537, 71-5301)

SECTION 7-208: REPAIRS AND MAINTENANCE

The Village shall repair or replace, as the case may be, all supply pipe between the commercial main and the stop box. The customer at his or her own expense shall replace and keep in repair all service pipe from the stop box to the place of dispersion. When leaks occur in service pipes, the utility superintendent shall shut off water service until the leak is repaired at the expense of the customer to the satisfaction of the superintendent. (Neb. Rev. Stat. §17-537)

SECTION 7-209: WATER RATES

All water consumers shall be liable for the minimum rate provided by ordinance unless and until a consumer shall direct the utility superintendent to shut off the water at the stop box, in which case he or she shall not be liable thereafter for water usage until the water is turned on again. (Neb. Rev. Stat. §§71-540, 71-542)

SECTION 7-210: BILLING AND COLLECTIONS

The village clerk shall bill the consumers and collect all money received by the Village on the account of the Water Department, and faithfully account for and pay to the village treasurer all revenue collected. Billing and collection procedures are set forth in Section 7-106. (Neb. Rev. Stat. §17-540)

SECTION 7-211: RIGHT OF ENTRY FOR INSPECTION

The utility superintendent or duly authorized agents shall have access at any reasonable time to all parts of each premises 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. (Neb. Rev. Stat. §17-537)

SECTION 7-212: 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 above-mentioned property without the written permission of the utility superintendent.

SECTION 7-213: 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 (A) members of the Fire Department under the orders of the fire chief or the assistant chief or (B) employees 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.

SECTION 7-214: 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 Water Department. The standards for water quality established or adopted by the state shall be presumptive evidence as to when the water is deemed to be polluted under this section. (Neb. Rev. Stat. §§17-536, 18-1720, 28-1321)

SECTION 7-215: BACKFLOW REGULATIONS; POLICY AND PURPOSE

A. The purpose of the backflow regulations is to protect the public water supply system of the Village from the possibility of contamination or pollution which may backflow into the system. The regulations provide for the maintenance of a continuing program of cross-connection controls which will systematically and effectively prevent the contamination or pollution of the potable water supply system.

B. The utility superintendent shall be responsible for the backflow prevention program as outlined within the regulations. If in the judgment of the superintendent an approved backflow prevention device is required for the safety of the public water supply system, then he or she shall give notice in writing to the consumer to install said device at each recommended location. The superintendent shall inspect and approve all installations of the required backflow prevention devices. The costs for purchasing, installing and maintaining a backflow prevention device shall be the responsibility and sole expense of the consumer. The installation of backflow prevention devices, except for outlet fixture vacuum breakers, shall be by a licensed plumber. Annual testing of all dual check valves and reduced pressure zone devices shall be performed by the superintendent. If maintenance or repairs are deemed necessary, the consumer shall be contacted and issued an order to do all necessary repairs or maintenance. The consumer shall complete all maintenance or repairs within 30 days; if not, he or she shall be considered in violation of the backflow regulations and will be subject to disconnection of service as provided in the ordinance.

C. No person shall install or maintain a water service connection containing cross-connections to a public water supply system or a consumer's potable water supply system unless such cross-connections are abated or controlled in accordance with this ordinance and as required by the laws and regulations of the Nebraska Department of Health and Human Services.

D. For the purposes of the backflow prevention regulations, whenever the superintendent is to make any decisions or interpretations or whenever reference is made to the fact that the superintendent is to exercise judgment, such decision, interpretation or judgment shall be in accordance with the provisions of the backflow prevention regulations and any other applicable provisions of the municipal code and state and federal law.

E. This section is a summary of backflow regulations enacted by the Village. The ordinance in its entirety shall be kept on file in the office of the village clerk.

SECTION 7-216: RESTRICTED USE

The Village Board or the utility superintendent may order a reduction in the use of water or shut off the water on any premises in the event of a water shortage due to fire, drought, or other good and sufficient cause. The Village 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 Village has no control. (Neb. Rev. Stat. §17-537)

(Water Conservation Regulations enacted by Ord. No. 2003-____, 5/6/03)

SECTION 7-217: WATER CONSERVATION; SHORTAGE

From time to time during and following drought conditions or due to equipment failure, the Village's water supply may become significantly and seriously depleted so that there will not be sufficient supply of water to meet all customary and usual demands. Under these conditions, the Village Board may find, and declare by resolution, a public water watch, water warning or water emergency, during which time the following measures and provisions shall be in effect to produce an orderly and equitable reduction of water consumption until, by resolution, the Village Board finds and declares the water shortage condition to be ended.

SECTION 7-218: WATER CONSERVATION; CONDITIONS

A. *Water Watch.* A water watch may be declared when a water shortage or equipment failure poses a potential threat to the ability of the water system to meet the needs of its customers currently or in the foreseeable future. Indicators of the need to impose a water watch include:

1. System operating at 75% of pumping capacity;
2. Moderate decrease in the pumping water level of wells or moderate decrease in recovery rate of water level in wells;
3. Moderate decrease in reservoir levels measured in number of feet below spillway or number of feet above intake.

B. *Water Warning.* A Level 1 or Level 2 water warning may be declared when a water shortage or equipment failure poses a serious threat to the ability of the water system to meet the needs of its customers currently and in the foreseeable future.

1. Indicators of the need to impose a Level 1 water warning include:
 - a. System operating at 85% of pumping capacity;

- b. Significant decrease in the pumping water level of wells or significant decrease in recovery rate of water levels in wells;
 - c. Significant decrease in reservoir levels measured in number of feet below spillway or number of feet above intake.
2. Indicators of the need to impose a Level 2 water warning include severe system emergencies such as a chemical spill or major system failure in feeder mains or treatment plant.

C. *Water Emergency.* A water emergency may be declared when a water shortage or equipment failure poses a severe and immediate threat to the ability of the water system to meet the needs of its customers. Indicators of the need to impose a water emergency include:

1. System operating at 95% pumping capacity;
2. Serious decrease in recovery rate of water level in wells;
3. Serious decrease in reservoir levels measured in number of feet below spillway or number of feet above intake.

SECTION 7-219: WATER CONSERVATION; WATER WATCH

Under a water watch, all customers of the Village are encouraged to limit or curtail all nonessential uses of water in order to conserve precious water resources during the time of shortage. Customers may be encouraged to comply with the following voluntary standards:

- A. No watering of lawns, shrubs or gardens between the hours of 8:00 a.m. and 8:00 p.m.
- B. No water should be used to fill private swimming pools, children's wading pools, reflecting pools or any other outdoor pool or pond.
- C. No water should be used to wash streets, parking lots, driveways, sidewalks or building exteriors.
- D. No water should be used for nonessential cleaning of commercial and industrial equipment, machinery and interior spaces.
- E. Water should be served at restaurants only upon the request of the customer.

SECTION 7-220: WATER CONSERVATION; WATER WARNING LEVEL 1

Under a Level 1 water warning, no person shall use potable processed water in any manner contrary to the following:

- A. Outdoor watering or irrigation of lawns is prohibited.
- B. Outdoor watering of any kind is prohibited between the hours of 8:00 a.m. and 8:00 p.m. daily.
- C. Watering or irrigation of flower and vegetable gardens, trees and shrubs less than 4 years old and new seedlings or sod is permitted once per week, with an application not to exceed 1 inch.
- D. Car washing is prohibited except in commercial establishments that provide that service.
- E. No water shall be used to fill private swimming pools, children's wading pools, reflecting pools or any other outdoor pool or pond.
- F. No water shall be used to wash streets, parking lots, driveways, sidewalks or building exteriors.
- G. No water shall be used for nonessential cleaning of commercial and industrial equipment, machinery and interior spaces.
- H. Water shall be served at restaurants only upon request of the customer.
- I. Use of water-consuming comfort air conditioning equipment which consumes in excess of 5% of the water circulating in such equipment is prohibited.
- J. Tankload water sales may be curtailed or eliminated.
- K. Water reclaimed or recycled after some other primary use, such as water that has been used for washing or cooling, may be used without restriction. Additionally, water derived from sources other than the village water utility, such as water condensed from the atmosphere by air conditioners or collected from rain or snow, may be used without restriction.

SECTION 7-221: WATER CONSERVATION; WATER WARNING LEVEL 2

Under a Level 2 water warning, no person shall use potable processed water in any manner contrary to the following:

- A. All outside water use, except for domestic, sanitation, and fire, is prohibited.
- B. All commercial and industrial uses of water not essential in providing products or services is prohibited.

C. Irrigation of agricultural crops is prohibited.

D. Recreational and leisure water use, including lawn and golf course watering and other incidental or recreational use, is prohibited.

E. Water use not necessary for the preservation of life or the general welfare of the community is prohibited.

SECTION 7-222: WATER CONSERVATION; WATER EMERGENCY

Under a water emergency, Level 1 water warning use restrictions will be in effect and in addition, each customer will be afforded a monthly allocation of water.

SECTION 7-223: WATER CONSERVATION; BASE ALLOCATION; APPEAL AND ADJUSTMENT

A. The base allocation of water for residential use shall be 3,000 gallons per household per billing period. For commercial, industrial, or institutional use, the base allocation shall be established by resolution as a percentage of the average water used during the previous winter (November through April).

B. Any person may file an appeal with the Water Appeal Board to adjust the base allocation amount. The said board may grant an adjustment to the appellant based upon the following criteria:

1. For single-family residential use, the base allocation may be increased by 1,000 gallons per person per billing period for all individuals residing at the appellant's residence for a period of more than 30 days.
2. For commercial, industrial, institutional, or other residential uses, the base allocation may be increased based on factors appropriate to the individual customer such as usage, production, service, and occupancy data provided by the customer.

SECTION 7-224: WATER CONSERVATION; PREMIUM RATE; ADJUSTMENT

A. In addition to the water rates duly enacted by the Village, all persons shall pay a premium rate as set by resolution by the Village Board and kept on file in the office of the village clerk.

B. Any person may file for adjustment of the premium rate charges for imprudent water consumption with the Water Appeal Board, which may grant an adjustment of the premium rate charges in accordance with the following criteria:

1. Adjustments may be granted for overconsumption due to mechanical failures such as broken or leaky pipes or fixtures but not for

overconsumption due to human carelessness.

2. The applicant shall furnish proof that the mechanical failure was repaired promptly, in the form of a licensed plumber's invoice or statement or a materials receipt.
3. The adjustment shall be granted only for the billing period prior to the correction of the failure.
4. For those accounts granted an adjustment of the premium rate charges, the minimum adjusted rate shall be 40% of the actual bill, which shall include the premium rate charges and sales tax.

SECTION 7-225: WATER CONSERVATION; WARNING OR EMERGENCY; WATER APPEAL BOARD

A Water Appeal Board shall be appointed during any water warning or water emergency and shall consist of the chairman and/or utility superintendent and three representatives of the community who shall be appointed by the chairman with the approval of the Village Board. The Water Appeal Board shall hear appeals of and action taken pursuant to a water warning or water emergency; except that if a customer is charged with a municipal infraction relating to this ordinance, that proceeding shall be conducted pursuant to the appropriate Nebraska statute that applies.

SECTION 7-226: WATER CONSERVATION; REDUCTION IN FLOW OF WATER

The superintendent is authorized, after giving notice and opportunity for hearing before the Water Appeal Board, to reduce the flow of water to any person determined to be using water in any manner not in accordance with this ordinance during a water warning or water emergency.

SECTION 7-227: WATER CONSERVATION; PENALTIES

A. The following penalties shall apply for violations of water warning use restrictions imposed under this ordinance:

1. For a first violation, the Village shall issue a written notice of violation to the water user violating the water use restrictions imposed during a water warning or water emergency.
2. For a second violation within a 12-month period, a one-month surcharge shall be imposed in an amount equal to 50% of the previous month's water bill.
3. For any subsequent violation within a 12-month period, a one-month

surcharge shall be imposed in an amount equal to 50% of the previous month's water bill and, in addition, the Village shall interrupt water service to that customer at the premises where the violation occurred. Service shall not be restored until the customer has paid the reconnection fee and has provided reasonable assurance that future violations of water warning or water emergency use restrictions will not occur.

B. Any customer charged with a violation of the water warning or water emergency use restrictions may request a hearing before the Water Appeal Board. The said board may conclude that a violation did not occur or that the circumstances under which the violation occurred warrant a complete or partial mitigation of the penalty.

C. A second, subsequent violation of the water warning or water emergency use restrictions by any person within a 12-month period constitutes a municipal infraction. Any person who, in making application to the Water Appeal Board for adjustment of the base allocation or premium charges, intentionally provides false or incorrect statements or information commits a municipal infraction.

SECTION 7-228: WELLS AND OTHER UNDERGROUND FACILITIES; DISTANCE FROM VILLAGE WATER SOURCES; PERMIT

A. For purposes of this section, "water well" shall mean any excavation that is drilled, corralled, bored, washed, dug, driven, jetted or otherwise constructed for the purpose of exploring for ground water, monitoring ground water, utilizing the geothermal property 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 oils, natural gas, minerals or products mined or quarried or inserting media to repressure oil or natural gas bearing formation. The intent of this section is to establish control by the Village over the location of future potential sources of contamination within the Village and the extraterritorial jurisdiction of the Village's drinking water system, so as to prevent or minimize any hazard to the safety of the Village's drinking water.

B. 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 any existing village water well, water storage tanks or existing underground water mains:

Water well	1,000 feet
Sewage lagoon	1,000 feet
Land application of municipal/industrial waste material	1,000 feet
Feedlot or feedlot runoff	1,000 feet
Underground disposal system (septic system, etc.)	500 feet
Corral	500 feet
Pit toilet, vault toilet	500 feet

Wastewater holding tank	500 feet
Sanitary landfill/dump	500 feet
Chemical or petroleum product storage	500 feet
Sewage treatment plant	500 feet
Sewage wet well	500 feet
Sanitary sewer connection	100 feet
Sanitary sewer manhole	100 feet
Sanitary sewer line	50 feet

(Nebraska DHHS 4/4/10)

C. The construction of a water well within the corporate limits or within one mile of the corporate limits of the Village shall not be started unless a permit approved by the Village Board has been obtained.

D. The Village Board may consider allowing placement of water wells as defined by the Nebraska regulations governing public water supply systems (Title 179, NAC2) and Nebraska regulations governing water well construction, pump installation and water well abandonment standards (Title 178, NAC12), as amended from time to time, closer to a village water well than the limitations set forth herein. Closer placement shall be allowed only under the following conditions:

1. 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 his or her examination and report shall be paid by the applicant in addition to any previously paid estimated costs.
2. The Village Board 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 defined in subsection (A), the Village Board must act to prevent all sources of possible or likely water contamination.

E. If the Village Board approves the installation, it shall submit the application, together with the engineer's report, to the Nebraska Department of Health and Human Services for final approval or denial. No installation shall be made without the approval of both the Village Board and DHHS.

F. Water wells in existence and use shall continue to be permitted unless such continued existence or use presents a hazard to the quality of the drinking water available for public use in the Village. 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 ordinance.

(Ord. No. 2005-4, 6/6/05)

SECTION 7-229: COMMERCIAL LIVESTOCK WATERING OPERATIONS

No commercial livestock operations shall be allowed within the limits of the Village unless such operation shall have first obtained permission from the Village Board.

Article 3 – Sewer Department

SECTION 7-301: OPERATION AND FUNDING

A. The Village owns and operates the sewer system through the utility superintendent. The Village Board, for the purpose of defraying the cost of the management and maintenance of the 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.

B. The utility superintendent shall have the direct management and control of the Sewer Department and shall faithfully carry out the duties of his or her office. He or she 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 Village Board. The said board 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 village clerk for public inspection during office hours.

(Neb. Rev. Stat. §17-925.01)

SECTION 7-302: DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

"Sanitary sewer" shall mean a sewer that carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

"Sewage" shall mean 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" shall mean a pipe or conduit for carrying sewage.

"Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

SECTION 7-303: UNLAWFUL DEPOSITS AND DISCHARGES; PROHIBITED FACILITIES

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

B. It shall be unlawful to discharge to any natural outlet within the Village,

within one mile of the corporate limits thereof or in any area under its jurisdiction, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsection (E) below.

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

D. Storm water and all other unpolluted drainage including surface water, subsurface drainage, ground water, and roof runoff shall be discharged to specifically designated combined sewers or storm sewers or to a natural outlet approved by the utility superintendent. Industrial cooling water or unpolluted process water may be discharged, on approval of the 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 Village for such costs, which shall be as determined by the utility superintendent. It shall further be unlawful to connect or maintain connected to the sanitary sewer system any pump which pumps any of the above-identified kinds of water for any purpose whatsoever.

E. No person shall discharge or cause to be discharged any hazardous waters or wastes into the village sewer system. Specific prohibitions in reference to hazardous discharges, options for handling the same, compliance procedures, and penalties for violations shall be as provided by the requirements of applicable regulations, laws, codes, and ordinances including 40 C.F.R., Part 403.

F. In addition to the other remedies that are provided by this chapter for violations of this code, the Village shall have the right to secure the abatement of any connection or discharging violation of this section.

SECTION 7-304: CONNECTION TO SEWER SYSTEM

A. The owner of any house, building, or property used for human employment, recreation, or other purposes situated within the Village and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer line of the Village is hereby required at the owner's expense to install suitable toilet facilities therein and to connect such facilities directly with the said public sewer in accordance with the provisions of this article within ten days after date of official notice to do so, provided that said public sewer is within 300 feet of the property line.

B. The Village may furnish sewer service to persons within its corporate limits whose property line is not within 300 feet of the said public sewer with permission from the Village Board, provided that the entire cost of pipe and other installation charges shall be paid by such consumer. Nothing herein shall be construed to obligate the Village to provide sewer service to persons whose property line is not within 300 feet of the said public sewer.

C. Each building hereafter erected shall be connected with the sewer system at the time of its erection. In the event that any property owner, occupant, or lessee shall neglect, fail, or refuse to make such a connection with the public sewer within a period of ten days after notice has been given to do so by certified or registered mail or by publication in a newspaper in or of general circulation in the Village, the Village Board 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 or to collect in the manner provided for the collection of sewer bills as provided herein.

(Neb. Rev. Stat. §§17-575, 18-503)

SECTION 7-305: INSTALLATION EXPENSE

A. All expenses from the main sewer line to the property line are the responsibility of the customer. The utility superintendent in his or her discretion may direct the customer to hire a licensed plumber to tap the main. The customer shall then be required to pay the expense of procuring the materials required and shall pay all other costs of installation.

B. If commercial mains are not laid along the street abutting applicant's property and if a sewer main district is not created or extended, applicant may, at his or her own expense under the approval and direction of the utility superintendent, pay the costs of trenching, pipe installation, labor, and attachments necessary to bring sewer service from the nearest commercial main to applicant's premises.

(Neb. Rev. Stat. §18-503)

SECTION 7-306: REPAIRS AND MAINTENANCE

A. The Sewer Department may require the owner of any property which is connected to the public sewers or drains to repair or replace any connection line which serves the owner's property and is broken, clogged, or otherwise in need of repair or replacement. The property owner's duty to repair or replace such a connection line shall include those portions upon the owner's property and those portions upon public property or easements up to and including the point of junction with the public main. All replacements and repairs made by the customer shall be done in the manner and with the materials approved by the utility superintendent, provided the same have been previously approved by the Village Board.

B. The village clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of such owner or the agent of such owner, directing the repair or replacement of such connection line. If within 30 days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the utility superintendent shall complete the work and charge the cost of such repairs or replacement to the customer.

(Neb. Rev. Stat. §18-1748)

SECTION 7-307: PLUMBER'S LIABILITY

A. 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 for 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 having a current plumber's license issued by the state; provided, nothing herein shall be construed to apply to a person, firm or corporation under special contract with the Village for the construction, extension or repair of the village sewer system.

B. All work by plumbers shall be done in the manner required by the utility superintendent and shall be at all times subject to his or her inspection and approval. Plumbers who connect with the public sewer system shall be held responsible for any damage to the pipes or the public ways and property and shall restore all excavated streets to the complete satisfaction of the superintendent. It shall be unlawful to cover or conceal willfully any defective or unsatisfactory work.

(Neb. Rev. Stat. §17-537)

SECTION 7-308: INSTALLATION OR REPAIR; PROCEDURE, MATERIALS

All installation or repair of any part of the sewerage system shall be done under the supervision of the utility superintendent and strictly in accordance with the rules, regulations, and specifications on file with the village office and prescribed for such installation by the village engineer, provided that the said rules, regulations, and specifications have been reviewed and approved by the Village Board. Where the material proposed to be used for sewerage system installation or repairs is not among those on file in the clerk's office, a determination shall be made and expense paid using the same procedures as prescribed for determinations of materials for water mains, supply lines, and service lines. (Neb. Rev. Stat. §18-503)

SECTION 7-309: INSTALLATION; USE OF EXISTING SEWERS

Old building sewers and drains may be used in connection with new buildings or new plumbing only when they are found, on examination by the utility superintendent, to conform in all respects to the requirements governing new sewers and drains. If the old work is found defective or otherwise unsatisfactory, the superintendent shall notify the owner to make the necessary changes to conform to the provisions of this chapter.

SECTION 7-310: INSTALLATION; INDEPENDENT CONNECTION; EXCEPTION

A separate and independent building sewer shall be provided for every building. Where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer; but the Village does not and will not assume any obligation or responsibility for damage

caused by or resulting from any such single connection aforementioned. (Neb. Rev. Stat. §18-503)

SECTION 7-311: INSTALLATION; UNLAWFUL CONNECTION; POLLUTED DRAINAGE

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 utility superintendent for purposes of disposal of polluted surface drainage. 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.

SECTION 7-312: SEWER RATES

All sewer customers shall be liable for the minimum rate provided by ordinance. (Neb. Rev. Stat. §18-509)

SECTION 7-313: BILLING AND COLLECTIONS

The village clerk shall bill the consumers, collect all money received by the Village on the account of the Sewer Department, and faithfully account for and pay to the village treasurer all revenue collected. Billing and collection procedures are set forth in Section 7-106. (Neb. Rev. Stat. §17-540)

SECTION 7-314: MANHOLES

Entrance into a manhole or opening for any purpose except by authorized persons is 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.

SECTION 7-315: RIGHT OF ENTRY FOR INSPECTION

The utility superintendent or authorized agents shall have access at any reasonable time to all parts of each premises and building which is connected with the sewer system to ascertain whether there is any disrepair or violations of this article therein.

SECTION 7-316: DESTRUCTION OF PROPERTY

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

SECTION 7-317: SERVICE INTERRUPTIONS

The Village shall make all reasonable efforts to eliminate interruption of service and when such interruption occurs, will endeavor to re-establish service with the shortest possible delay. Whenever the service is interrupted for the purpose of working on the collection system or the treatment equipment, all consumers affected by such interruption will be notified in advance whenever it is possible to do so.

Article 4 – Solid Waste

SECTION 7-401: OWNER’S RESPONSIBILITY

A. It shall be unlawful for any person to keep garbage, trash, or waste of any kind that may be injurious to the public health or offensive to the residents of the Village in, on, or about any dwelling, building, or premises or any other place in the Village unless the same is kept in approved receptacles awaiting disposal.

B. No person may permit yard waste, garbage, trash, or waste to accumulate; all persons shall properly dispose of the same regularly.

C. All residents must contract on their own with a local company for weekly garbage/waste removal.
(Neb. Rev. Stat. §19-2106)

Article 5 – Penal Provision

SECTION 7-501: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of an offense and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.