

**MUNICIPAL CODE
OF
THE VILLAGE
OF
BROADWATER, NEBRASKA**

ORDINANCE NO. 140

**PUBLISHED BY AUTHORITY
OF THE
CHAIRMAN AND BOARD OF TRUSTEES**

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Codified by

The League of
Nebraska Municipalities
Lincoln, Nebraska

VILLAGE OFFICERS
of
BROADWATER, NEBRASKA
2005

Brandi Livingston Clerk/Treasurer
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BOARD OF TRUSTEES

Rex Leisy, Chairperson
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PREFACE

This Municipal Code of Broadwater, Nebraska, 1987, contains all the ordinances of the Municipality of a general nature. Certain ordinances which are continued in force after this codification for the purpose of rights acquired, fines, penalties, forfeitures, liabilities incurred, and actions therefor have been omitted from this publication.

A Table of Contents appears after this page, and a complete index to the subject matter included in the several chapters and sections herein will be found at the end of this volume. Convenient cross-references to the Statutes of Nebraska indicate the source of legislative power and supplement the text.

The text of the Broadwater Municipal Code, 1987, is arranged in the same manner as the Revised Statutes of Nebraska. The number preceding the hyphen is the chapter number; immediately following the hyphen is the article number; and following that is the section number. Each section number is complete within itself indicating the number of the chapter, article, and section.

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ORDINANCE NO. 198

AN ORDINANCE RELATING TO SUPPLEMENTS TO THE MUNICIPAL CODE; TO AUTHORIZE THE CODIFIER TO MAKE FORMAL NONSUBSTANTIVE CHANGES IN ORDINANCES AND PARTS OF ORDINANCES INCLUDED IN THE SUPPLEMENT AS NECESSARY TO EMBODY THEM INTO A UNIFIED CODE; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; TO PROVIDE AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CHAIRPERSON AND BOARD OF TRUSTEES OF THE VILLAGE OF BROADWATER, NEBRASKA:

Section 1. **SUPPLEMENTATION OF MUNICIPAL CODE.**
When preparing a supplement to the Municipal Code, the codifier (meaning the person, agency, or organization authorized to prepare the supplement) may make formal nonsubstantive changes in ordinances and parts of ordinances included in the supplement as necessary to embody them into a unified Code. For example, the codifier may:

1. Organize the ordinance material into appropriate sections and subdivisions;
2. Provide appropriate catchlines, headings, and titles for sections and other subdivisions of the ordinance printed in the supplement and make changes in such catchlines, headings, and titles;
3. Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
4. Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this section," etc., as may be appropriate, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code);
5. Insert appropriate section numbers in references to Code sections such as "section _____" or

- "sections _____ to _____" which are not filled in prior to adoption of an ordinance;
6. Correct the spelling of words, correct obvious typographical errors, correct erroneous division and hyphenation of words, capitalize or decapitalize words, and make other similar changes in accordance with accepted usage or for consistency with other provisions of the Code;
 7. Change terminology for consistency with terminology used in other provisions of the Code; and
 8. Make other nonsubstantive changes necessary to incorporate ordinance material into the Code while preserving the original meaning of the ordinance sections.

In no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code and not repealed by any ordinance.

Section 2. Any other ordinance or section passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions is repealed.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval, publication or posting as required by law.

Passed and approved this 6th day of October, 1997.

Cliff Middleton, Jr.
Chairperson

(SEAL)

Brandi R. Livingston
Clerk

ADMINISTRATIVE

Article 1. Elected Officials

§1-101 VILLAGE BOARD CHAIRPERSON; SELECTION AND DUTIES. The Village Board Chairperson shall be selected at the first regular meeting of the Board of Trustees in December by the Board of Trustees from its own membership. The Chairperson shall preside at all meetings of the Board of Trustees. In the absence of the Chairperson, the Board of Trustees shall elect one of its own body to occupy the position temporarily who shall hold the title of Chairperson pro tempore of the Board of Trustees. The Chairperson and the Chairperson pro tempore shall have the same powers and privileges as other members of the Board of Trustees. The Chairperson shall cause the ordinances of the Board of Trustees to be printed and published for the information of the inhabitants. The Chairperson shall also perform all duties of his or her office in accordance with the laws of the State of Nebraska, and the ordinances of the Municipality. The qualifications for the Chairperson shall be the same general qualifications that apply to the members of the Board of Trustees. (*Ref. 17-202 through 17-210 RS Neb.*) (*Amended by Ord. No. 179, 3/4/96*)

§1-102 VILLAGE BOARD; ORGANIZATION. The Board of Trustees shall consist of five (5) members. Any person who is a citizen of the United States, a resident of the Municipality at the time of his or her election, and a registered voter may be eligible to be elected to the Board of Trustees. Every Trustee so elected and so qualified shall hold his or her office for a term of four (4) years; provided, a Trustee's term shall expire, and the office will become vacant upon a change of residence from the Municipality. The Board of Trustees shall, before entering upon the duties of their office, take an oath to support the Constitution of the United States, and the Constitution of the State of Nebraska, and faithfully and impartially discharge the duties of their office. All Trustees elected to office shall qualify and meet at the first regular meeting of the Board in December, organize, and appoint the Municipal officers

required by law. (*Ref. 17-202 through 17-204 RS Neb.*) (*Amended by Ord. No. 180, 3/4/96*)

§1-103 VILLAGE BOARD; POWERS. (1) The Board of Trustees shall have the power to pass ordinances to prevent and remove nuisances; to restrain and prohibit gambling; to provide for licensing and regulating theatrical and other amusements within the Village; to prevent the introduction and spread of contagious diseases; to establish and regulate markets; to erect and repair bridges; to erect, repair, and regulate wharves and the rates of wharfage; to regulate the landing of watercraft; to provide for the inspection of building materials to be used or offered for sale in the Village; to govern the planting and protection of shade trees in the streets and the building of structures projecting upon or over and adjoining, and all excavations through and under, the sidewalks of the Village; and in addition to the special powers herein conferred and granted, to maintain the peace, good government, and welfare of the Village and its trade, commerce, and manufactories; and to enforce all ordinances by inflicting penalties upon inhabitants or other persons for violation thereof not exceeding five hundred (\$500.00) dollars for any one offense, recoverable with costs.

(2) The Village has the power and authority by ordinance to define, regulate, suppress, and prevent nuisances, and to declare what constitutes a nuisance, and to abate and remove the same. The Village may exercise such power and authority within its zoning jurisdiction. (*Ref. 17-207, 18-1720 RS Neb.*) (*Amended by Ord. No. 253, 10/2/00*)

§1-104 ELECTED OFFICIALS; VACANCY. (1) Every elective office shall be vacant upon the happening of any of the events specified in section 32-560 RS Neb.

(2) Except as otherwise provided in divisions (4) or (5) of this section, vacancies in village elected offices shall be filled by the Board of Trustees for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the Board at a

regular or special meeting and shall appear as a part of the minutes of such meeting. The Board shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the Village or by posting in three (3) public places in the Village the office vacated and the length of the unexpired term.

(3) The Chairperson of the Board shall, within four (4) weeks after the meeting at which such notice of vacancy has been presented or upon the death of the incumbent, call a special meeting of the Board or place the issue of filling such vacancy on the agenda at the next regular meeting at which time the Chairperson shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term. The Board shall vote upon such nominee, and if a majority votes in favor of such nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the Chairperson shall, at the next regular or special meeting, submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive a majority of the votes, the Chairperson shall continue at such meeting to submit the names of qualified registered voters in nomination, and the Board shall continue to vote upon such nominations, until the vacancy is filled. All Trustees present shall cast a ballot for or against the nominee. Any member of the Board who has been appointed to fill a vacancy on the Board shall have the same rights, including voting, as if such person were elected.

(4) The Chairperson and Board of Trustees may, in lieu of filling a vacancy in a Village elected office as provided in subsections (2) and (3) of this section, call a special election to fill such vacancy.

(5) If vacancies exist in the offices of a majority of the members of the Board of Trustees, the Secretary of State shall conduct a special election to fill such vacancies, except that the Board of Trustees of a Village situated in more than one county shall have power to fill by appointment any vacancy that may occur in their number.

(6) No official who is removed at a recall election or resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal or the removal of any other member of the same governing body during the remainder of his or her term of office. *(Ref. 32-560 through 32-572, 32-1308 RS Neb.) (Amended by Ord. No. 217, 2/1/99)*

§1-105 ELECTED OFFICIALS; VACANCY DUE TO UN-EXCUSED ABSENCES. (A) In addition to the events listed in section 32-560 RS Neb. and any other reasons for a vacancy provided by law, after notice and a hearing, a vacancy on the Board of Trustees shall exist if a member is absent from more than five (5) consecutive regular meetings of the Board unless the absences are excused by a majority vote of the remaining members. *(Ref. 19-3101 RS Neb.)*

(B) The Board of Trustees shall take a vote on whether to excuse a member's absence from a meeting upon either

(1) A written request from the member submitted to the Village Clerk or

(2) A motion of any other Board member.

(C) If a member has been absent from six (6) consecutive regular meetings and none of the absences have been excused by a majority vote of the remaining members, the Village Clerk shall include this as an item on the agenda for the next regular meeting. At that meeting, the Board shall set a date for a hearing and direct the Village Clerk to give the member notice of the hearing by personal service or first-class mail to the member's last-known address.

(D) At the hearing, the Board member shall have the right to present information on why one (1) or more of the absences should be excused. If the Board does not excuse one (1) or more of the member's absences by a majority vote at the conclusion of the hearing, there shall be a vacancy on the Board. *(Ord. No. 271, 12/1/03)*

Article 2. Appointed Officials

§1-201 APPOINTED OFFICIALS; APPOINTMENT; REMOVAL. (1) The Governing Body may appoint a Municipal Clerk, Treasurer, Attorney, Overseer of the Streets, and Marshal.

(2) It shall also appoint a Board of Health consisting of three (3) members: The Chairperson of the Village Board, who shall be chairperson, and two (2) other members. One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the Board's medical advisor. If the Governing Body has appointed a Village Marshal, the Village Marshal may be appointed to the Board and serve as secretary and quarantine officer.

(3) The Governing Body shall also appoint such additional officials and employees as they may determine the Municipality needs.

(4) All such appointees shall hold office for one (1) year, unless sooner removed by the Chairperson of the Board of Trustees by and with the advice and consent of the remainder of the Board of Trustees. If the Municipality has a Municipal Water Commissioner, the Municipal Water Commissioner may at any time, for sufficient cause, be removed from office by a two-thirds (2/3) vote of the Board of Trustees. (*Ref. 17-208, 17-541 RS Neb.*) (*Amended by Ord. No. 199, 10/6/97*)

§1-202 APPOINTED OFFICIALS; MERGER OF OFFICES. The Governing Body of the Municipality may, in its discretion, by ordinance combine and merge any elective or appointive office or employment, except Village Trustee, with any other elective, or appointive offices so that one or more of such offices may be held by the officer or employee at the same time, except that Trustees may perform and upon Board approval, receive compensation for seasonal or emergency work so long as there is no conflict of interest for such compensation. The offices so merged and combined shall always be construed to be separate, and the effect of the combination or merger shall be limited to a consolidation of official duties only; and provided further, the salary of the officer holding the merged offices shall not be in excess of the maximum amount provided by law for

the salary of the offices so combined. For purposes of this Section, volunteer firefighters and ambulance drivers shall not be considered officers. (*Ref. 17-209.02 RS Neb.*)

§1-203 APPOINTED OFFICIALS; CLERK-TREASURER POSITION CREATED. The appointive offices of Municipal Clerk and Municipal Treasurer are hereby combined and merged, in accordance with the authority granted to the Governing Body by Section 1-202.

The office so merged and combined shall always be construed to be separate, and the effect of the combination, or merger, shall be limited to a consolidation of official duties only.

The salary of the officer holding the merged offices shall not be in excess of the maximum amount provided by law for the salary of the offices so combined.

§1-204 APPOINTED OFFICIALS; MUNICIPAL CLERK. The Municipal Clerk shall attend the meetings of the Governing Body, and keep a correct journal of the proceedings of that body. He shall keep a record of all outstanding bonds against the Municipality and when any bonds are sold, purchased, paid, or cancelled, said record shall show the fact. He shall make, at the end of the fiscal year, a report of the business of the Municipality transacted through his office for the year. That record shall describe particularly the bonds issued, and sold during the year, and the terms of the sale with each, and every item, and expense thereof. He shall file all official bonds after the same shall have been properly executed, and approved. He shall make the proper certificate of passage which shall be attached to original copies of all bond ordinances hereafter enacted by the Governing Body.

The Municipal Clerk shall issue, and sign all licenses, permits, and occupation tax receipts authorized by law, and required by the Municipal ordinances. He shall collect all occupation taxes, and license money except where some other Municipal officer is specifically charged with that duty. He shall keep a register of all licenses granted in the Municipality, and the purpose for which they have been issued.

The Municipal Clerk shall permit no records, public papers, or other documents of the Municipality kept, and preserved in his office to be taken therefrom, except by such

officers of the Municipality as may be entitled to the use of the same, but only upon their leaving a receipt therefor. He shall keep all the records of his office, including a record of all licenses issued by him in a blank book with a proper index. He shall include as part of his records all petitions under which the Governing Body shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions, and ordinances relating to the same. He shall endorse the date, and hour of filing upon every paper, or document so filed in his office. All such filings made by him shall be properly docketed. Included in his records shall be all standard codes, amendments thereto, and other documents incorporated by reference, and arranged in triplicate in a manner convenient for reference. He shall keep, and preserve the proceedings of the Governing Body in two (2) separate, and distinct record books. The Minute Records shall contain a record of all the miscellaneous, and informal doings of the Governing Body. The Minute Record shall not include the passage, and approval of ordinances except such resolutions incorporating by reference the Ordinance Record into the Minute Record. The Ordinance Record shall contain the formal proceedings of the Governing Body in the matter of passing, approving, publishing, posting, and certifying of ordinances. After the formalities for the legal enactment of an ordinance have been completed, the Municipal Clerk shall record, and spread at large in the Ordinance Record his ordinance minutes on printed forms. In all cases hereafter where single ordinances are introduced for the consideration of the Governing Body, the Municipal Clerk shall cause to be introduced an appropriate resolution incorporating by reference the Ordinance Record into the Minute Record. He shall keep an accurate, and complete account of the appropriation of the several funds, draw, sign, and attest all warrants ordered for the payment of money on the particular fund from which the same is payable. At the end of each month, he shall then make a report of the amounts appropriated to the various funds, and the amount of the warrants drawn thereon. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records at all reasonable times.

The Municipal Clerk shall deliver all warrants, ordinances, and resolutions under his charge to the Chairman for his signature. He shall also deliver to officers, employees, and

committees all resolutions, and communications which are directed at said officers, employees, or committees. With the seal of the Municipality, he shall duly attest the Chairman's signature to all ordinances, deeds, and papers required to be attested to when ordered to do so by the Governing Body. Within thirty (30) days after any meeting of the Governing Body, the Municipal Clerk shall prepare, and publish the official proceedings of the Governing Body in a legal newspaper of general circulation in the Municipality, and which was duly designated as such by the Governing Body. Said publication shall set forth a statement of the proceedings thereof and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item. Between July 15 and August 15 of each year, the names of all employees and their current annual, monthly, or hourly salaries shall be published and any changes in salaries or the hiring of new employees during the calendar quarter preceding the months of October, January, and April shall be published during the months of November, February, and May; Provided, the charge for such publication shall not exceed the rates provided by the statutes of the State of Nebraska. Said publication shall be charged against the General Fund. He shall then keep in a book with a proper index, copies of all notices required to be published, or posted by the Municipal Clerk by order of the Governing Body, or under the ordinances of the Municipality. To each of the file copies of said notices shall be attached the printer's affidavit of publication, if the said notices are required to be published, or the Municipal Clerk's certificate under seal where the same are required to be posted only.

The Municipal Clerk shall receive all objections to creation of paving districts, and other street improvements. He shall receive the claims of any person against the Municipality, and in the event that the said claim is disallowed in part, or in whole, the Municipal Clerk shall notify such claimant, his agent, or attorney by letter within five (5) days after such disallowance, and the Municipal Clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

The Municipal Clerk may charge a reasonable fee for certified copies of any record in his office as set by resolution of the Governing Body. He shall destroy Municipal records under

when directed to do so by the Governing Body. Without direction, he shall appear, and prosecute all cases for violation of the Municipal ordinances that have been appealed to, and are pending in any higher court. He shall also examine, when requested to do so by the Governing Body, the ordinance records, and advise, and assist the Municipal Clerk as much as may be necessary to the end that each procedural step will be taken in the passage of each ordinance to insure that they will be valid, and subsisting local laws in so far as their passage, and approval are concerned. The Governing Body shall have the right to compensate the Municipal Attorney for legal services on such terms as the Governing Body and the Municipal Attorney may agree, and to employ any additional legal assistance as may be necessary out of the funds of the Municipality. (*Ref. 17-610 RS Neb.*)

§1-209 APPOINTED OFFICIALS; COUNTY SHERIFF AS LAW ENFORCEMENT OFFICER. The County Sheriff shall direct the police work of the Municipality and shall be responsible for the maintenance of law and order. He shall act as Health Inspector, and Building Inspector, except in the event the Municipality appoints another person. He shall file the necessary complaints in cases arising out of violations of Municipal ordinances, and shall make all necessary reports required by the Municipal ordinances, or the laws of the State of Nebraska. (*Ref. 17-213 RS Neb.*)

§1-210 APPOINTED OFFICIALS; MUNICIPAL FIRE CHIEF. The Municipal Fire Chief shall be elected by the members of the Fire Department. He shall enforce all laws and ordinances covering the prevention of fires; the storage and use of explosives and flammable substances; the installation of fire alarm systems; the maintenance of fire extinguishing equipment; the regulation of fire escapes; and the inspection of all premises requiring adequate fire escapes. He shall within two (2) days investigate the cause, origin, and circumstances of fires arising within his jurisdiction. He shall, on or before the first (1st) day in April and October of each year, cause the secretary to file with the Municipal Clerk, and the Clerk of the District Court a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the

exemptions provided by law. He shall have the power during the time of a fire, and for a period of thirty-six (36) hours thereafter to arrest any suspected arsonist, or any person for hindering the department's efforts, conducting himself in a noisy and disorderly manner, or who shall refuse to obey any lawful order by the Fire Chief or Assistant Fire Chief. The Fire Chief, or his assistant in charge of operations at a fire may command the services of any person present at any fire in extinguishing the same or in the removal, and protection of property. Failure to obey such an order shall be a misdemeanor punishable by a fine. The Fire Chief shall have the right to enter at all reasonable hours into buildings, and upon all premises within his jurisdiction for the purpose of examining the same for fire hazards, and related dangers. (Ref. 17-505, 35-102, 35-108, 81-506, 81-512 RS Neb.)

§1-211 APPOINTED OFFICIALS; MUNICIPAL ENGINEER.

The Municipal Engineer shall make all surveys, estimates, and calculations necessary to be made for the establishment of any public utilities, and the costs of labor and materials therefor. He shall accurately make all plats, sections, and maps as may be necessary under the direction of the Governing Body. Upon request, he shall make estimates of the cost of labor and material which may be done or furnished by contract with the Municipality, and make all surveys, estimates, and calculations necessary to be made for the establishment of grades, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, bridges, curbing, and gutters and the improvement of streets and erection and repair of buildings, and shall perform such other duties as the Governing Body may require. (Ref. 17-405, 17-568.01, 17-919, 81-839 RS Neb.)

§1-212 APPOINTED OFFICIALS; SPECIAL ENGINEER.

The Governing Body may employ a Special Engineer to make or assist the Municipal Engineer in making any particular estimate, survey, or other work. The Special Engineer shall make a record of the minutes of his surveys and all other work done for the Municipality. He shall, when directed by the Governing Body, accurately make all plats, sections, profiles, and maps as may be necessary in the judgment of the Governing Body. He

shall, upon request of the Governing Body, make estimates of the costs of labor and material which may be done or furnished by contract with the Municipality, and make all surveys, estimates, and calculations necessary for the establishment of grades, bridges, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, curbing and gutters, and the improvement of streets and erection and repair of buildings, and shall perform such other duties as the Governing Body may require. All records of the Special Engineer shall be public records which shall belong to the Municipality, and shall be turned over to his successor. (*Ref. 17-405, 17-568, 17-568.01, 17-919 RS Neb.*)

§1-213 APPOINTED OFFICIALS; MUNICIPAL UTILITIES SUPERINTENDENT. A Utilities Superintendent shall be appointed in the event that there is more than one Municipal utility, and the Governing Body determines that it is in the best interest of the Municipality to appoint one official to have the immediate control over all the said Municipal utilities. The Utilities Superintendent may be removed at any time by the Governing Body and any vacancy occurring in the said office by death, resignation or removal may be filled in the manner hereinbefore provided for the appointment of all Municipal officials. (*Ref. 17-541 RS Neb.*)

Article 3. Bonds and Oath

§1-301 BONDS; FORM. Official bonds of the Municipality shall be in form, joint and several, and shall be made payable to the Municipality in such penalty as the Governing Body may set by resolution; Provided, the penalty amount on any bond shall not fall below the legal minimum, when one has been set by the State of Nebraska, for each particular official. All official bonds of the Municipal officials shall be executed by the principal named in such bonds and by at least two (2) sufficient sureties who shall be freeholders of the county, or by the official as principal and by a guaranty, surety, fidelity, or bonding company; Provided no Municipal official, while still in his official term of office, shall be accepted as surety on any other official's bond, contractor's bond, license bond, or appeal bond under any circumstances. Only companies that are legally authorized to transact business in the State of Nebraska shall be eligible for suretyship on the bond of an official of the Municipality. All said bonds shall obligate the principal, and sureties for the faithful discharge of all duties required by law of such principal, and shall inure to the benefit of the Municipality and any persons who may be injured by a breach of the conditions of such bonds. No bond shall be deemed to be given or complete until the approval of the Governing Body, and all sureties are endorsed in writing on the said instrument by the Chairman and Municipal Clerk pursuant to the said approval of the Governing Body. The premium on any official bond required to be given may be paid out of the General Fund, or other proper Municipal fund, upon a resolution to that effect by the Governing Body at the beginning of any Municipal year. All official bonds, meeting the conditions herein, shall be filed with the Municipal Clerk for his official records, and it shall be the duty of the Municipal Clerk to furnish a certified copy of any bond so filed upon the payment of a fee which shall be set by resolution of the Governing Body. In the event that the sureties on the official bond of any officer of the Municipality, in the opinion of the Governing Body, become insufficient, the Governing Body may, by resolution, fix a reasonable time within which the said officer may give a new bond or additional sureties as directed. In the event that the officer should fail, refuse, or neglect to give a new bond, or additional sureties to the satisfaction, and approval of

the Governing Body then the office shall, by such failure, refusal, or neglect, become vacant, and it shall be the duty of the Governing Body to appoint a competent, and qualified person to fill the said office. Any official who is re-elected to office shall be required to file a new bond after each election. (*Ref. 11-103 thru 11-118, 17-604 RS Neb.*)

§1-302 OATH OF OFFICE; MUNICIPAL OFFICIALS.

All officials of the Municipality, whether elected or appointed, except when a different oath is specifically provided herein, shall, before entering upon their respective duties, take and subscribe the following oath which shall be endorsed upon their respective bonds:

"I _____ do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Nebraska, against all enemies foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, and without mental reservation, or for the purpose of evasion; and that I will faithfully and impartially perform the duties of the office of _____, according to law, and to the best of my ability. And I do further swear that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force, or violence; and that during such time as I am in this position I will not advocate, nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence. So help me God."

(*Ref. 11-101 RS Neb.*)

Article 4. Corporate Seal

§1-401 **SEAL; OFFICIAL CORPORATE.** The official Corporate Seal of the Municipality shall be kept in the office of the Municipal Clerk, and shall bear the following inscription, "Official Seal, Village of Broadwater, Nebraska." The Municipal Clerk shall affix an impression of the said official seal to all warrants, licenses, permits, ordinances, and all other official papers issued by order of the Governing Body and countersigned by the Municipal Clerk. (*Ref. 17-502 RS Neb.*)

Article 5. Meetings

§1-501 MEETINGS; DEFINED. Meetings, as used in this Article shall mean all regular, special, or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action. (*Ref. 84-1409(2) RS Neb.*)

§1-502 MEETINGS; PUBLIC BODY DEFINED. Public Body as used in this Article shall mean:

- A. The Governing Body of the Municipality,
- B. All independent boards, commissions, bureaus, committees, councils, subunits, Certificate of Need appeal panels, or any other bodies, now or hereafter created by Constitution, statute, or otherwise pursuant to law, and
- C. Advisory committees of the bodies listed above.

This Article shall not apply to subcommittees of such bodies unless such subcommittees are holding hearings, making policy or taking formal action on behalf of their parent body. (*Ref. 84-1409(1) RS Neb.*)

§1-503 MEETINGS; PUBLIC. All public meetings as defined by law shall be held in a Municipal public building which shall be open to attendance by the public. All meetings shall be held in the public building in which the Governing Body usually holds such meetings unless the publicized notice hereinafter required shall designate some other public building or other specified place. The advance publicized notice of all public convened meetings shall be simultaneously transmitted to all members of the Governing Body and to the public by a method designated by the Governing Body or by the Chairman if the Governing Body has not designated a method. Such notice shall contain the time and specific place for each meeting and either an enumeration of the agenda subjects known at the time of the notice, or a statement that such an agenda kept continually current shall be readily available for public inspection at the office of the Municipal

Clerk. Except for items of an emergency nature, the agenda shall not be enlarged later than twenty-four (24) hours before the scheduled commencement of the meeting. The Governing Body shall have the right to modify the agenda to include items of an emergency nature only, at such public meetings. The minutes of the Municipal Clerk shall include the record of the manner and advance time by which the advance publicized notice was given, a statement of how the availability of an agenda of the then known subjects was communicated, the time and specific place of the meetings, and the names of each member of the Governing Body present or absent at each convened meeting. The minutes of the Governing Body shall be a public record open to inspection by the public upon request at any reasonable time at the office of the Municipal Clerk. Any official action on any question or motion duly moved and seconded shall be taken only by roll call vote of the Governing Body in open session. The record of the Municipal Clerk shall show how each member voted, or that the member was absent and did not vote. (*Ref. 84-1408, 84-1409, 84-1411, 84-1413 RS Neb.*)

§1-504 MEETINGS; CLOSED SESSIONS. (A)(1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. Closed sessions may be held for, but shall not be limited to, such reasons as:

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct; or

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting.

(2) Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(B) The vote to hold a closed session shall be taken in open session. The vote of each member on the question of holding a closed session, the reason for the closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the minutes as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action means a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under division (A)(1)(a) of this section.

(C) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for:

(1) The protection of the public interest or

(2) The prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(D) Nothing in this section shall be construed to require that any meeting be closed to the public. (*Ref. 84-1410 RS Neb.*) (*Amended by Ord. Nos. 171, 8/7/95; 290, 9/7/05*)

§1-504.01 MEETINGS; PROHIBITED ACTS; EXEMPT EVENTS.

(A) No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing this article or the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or electronic communication shall be used for the purpose of circumventing the requirements of this article or the act.

(B) This Article does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power. (*Ref. 84-1410 RS Neb.*) (*Ord. No. 290, 9/7/05*)

§1-505 MEETINGS; EMERGENCY MEETINGS. When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of section 1-508 of this Article shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day. (*Ref. 84-1411 RS Neb.*)

§1-506 MEETINGS; MINUTES. Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

The minutes shall be public records and open to public inspection during normal business hours.

Minutes shall be written and available for inspection within ten (10) working days, or prior to the next convened meeting, whichever occurs earlier. (*Ref. 84-1412, 84-1413 RS Neb.*)

§1-507 MEETINGS; VOTES. Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted, or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by the Municipality utilizing an electronic voting device which allows the yeas and nays of each member of the Governing Body to be readily seen by the public.

The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes. (*Ref. 17-616, 84-1413 RS Neb.*)

§1-508 MEETINGS; NOTICE TO NEWS MEDIA. The Municipal Clerk, Secretary, or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting, and the subjects to be discussed at that meeting. (*Ref. 84-1411 RS Neb.*)

§1-509 MEETINGS; PUBLIC PARTICIPATION. Subject to the provisions of this Article, the public shall have the right to attend and the right to speak at meetings of public bodies and all or any part of a meeting of a public body except for closed meetings called pursuant to section 1-504 may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

It shall not be a violation of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings. No public body shall require members of the public to identify themselves as a condition for admission to the meeting. The body may require any member of

the public desiring to address the body to identify himself or herself. No public body shall for the purpose of circumventing the provisions of this Article hold a meeting in a place known by the body to be too small to accommodate the anticipated audience. No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this State. No public body shall hold a meeting outside the State of Nebraska. The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting. Public bodies shall make available at the meeting, for examination and copying by members of the public, at least one (1) copy of all reproducible written material to be discussed at an open meeting. (*Ref. 84-1412 RS Neb.*)

§1-510 MEETINGS; ORDER OF BUSINESS. All meetings of the Governing Body shall be open to the public. Promptly at the hour set by law on the day of each regular meeting, the members of the Governing Body, the Municipal Clerk, the Chairman, and such other Municipal officials that may be required shall take their regular stations in the meeting place, and the business of the Municipality shall be taken up for consideration, and disposition in the manner prescribed by the official agenda on file at the office of the Municipal Clerk.

§1-511 MEETINGS; PARLIAMENTARY PROCEDURE. The Chairman shall preserve order during meetings of the Governing Body and shall decide all questions of order, subject to an appeal to the Governing Body. When any person is called to order, he shall be seated until the point is decided. When the Chairman is putting the question, no person shall leave the meeting room. Every person present, previous to speaking shall rise from his seat and address himself to the presiding officer and while speaking shall confine himself to the question. When two (2), or more persons rise at once, the Chairman shall recognize the one who spoke first. All resolutions or motions shall be reduced to writing before being acted upon, if

requested by the Municipal Clerk, or any member of the Governing Body. Every member of the Governing Body who is present when a question is voted upon, shall cast his vote unless excused by a majority of the Governing Body present. No motion shall be put or debated unless seconded. When seconded, it shall be stated by the Chairman before being debatable. In all cases where a motion or resolution is entered on the minutes, the name of the member of the Governing Body making the motion, or resolution shall be entered also. After each vote, the "Yeas" and "Nays" shall be taken, and entered in the minutes upon the request of any member of the Governing Body. Before the vote is actually taken, any resolution, motion, or proposed ordinance may be withdrawn from consideration by the sponsor thereof with the consent of the member of the Governing Body seconding the said resolution, motion, or ordinance. When, in the consideration of an ordinance, different times, or amounts are proposed, the question shall be put on the largest sum, or the longest time. A question to reconsider shall be in order when made by a member voting with the majority, but such motion to reconsider must be made before the expiration of the third (3rd) regular meeting after the initial consideration of the question. When any question is under debate, no motion shall be made, entertained, or seconded except the previous question, a motion to table, and to adjourn. Each of the said motions shall be decided without debate. Any of the rules of the Governing Body for meetings may be suspended by a two-thirds (2/3) vote of the members present. In all cases in which provisions are not made by these rules, Robert's Rules of Order is the authority by which the Governing Body shall decide all procedural disputes that may arise.

§1-512 MEETINGS; CHANGE IN OFFICE. The Chairperson and Board of Trustees shall meet at the regular meeting of the Board in December in each election year, and the outgoing officers and outgoing members of the Board of Trustees shall present their reports, and upon the outgoing Board having completed its business, the outgoing Trustees shall surrender their offices to the incoming

Trustees, and the outgoing officers shall thereupon each surrender to his successor in office all property, records, papers, and moneys belonging to the same. (*Ref. 17-204 RS Neb.*) (*Amended by Ord. No. 181, 3/4/96*)

§1-513 MEETINGS; REORGANIZATIONAL MEETING.

The newly elected Board of Trustees shall convene at the regular place of meeting at the first regular meeting of the Board in each election year immediately after the prior Board adjourns and proceed to organize themselves for the ensuing year. The Chairperson pro tempore shall call the meeting to order. The Board shall then proceed to examine the credentials of its members and other elective officers of the Municipality to see that each has been duly and properly elected and to see that such oaths and bonds have been given as are required. After ascertaining that all Trustees and officers are duly qualified, the Board shall then elect one of its own body who shall be styled as Chairperson of the Board of Trustees. The Chairperson shall then nominate his or her candidates for appointive offices and said officers shall hold office until their successors are duly appointed and qualified. The Chairperson shall then proceed with the regular order of business. It is hereby made the duty of each and every member of the Board or of its successors in office and of each officer hereafter elected to any office, to qualify prior to the first regular meeting of the Board in December following his or her election. Immediately upon the assembly of the newly elected Board upon the first regular meeting in December following the election, each officer elected at the general election shall take possession of his office. Each appointive officer who is required to give bond shall qualify by filing the required bond, approved by the Board of Trustees, in the office of the Municipal Clerk within two (2) weeks from the date of his said appointment; provided, on said bond shall be endorsed the same oath as required of a Trustee. Failure to qualify by elective or appointive officers within the time and manner provided in this section shall and does in itself create a vacancy in the office to which said person failing to qualify shall have been elected or appointed. (*Ref. 17-204 RS Neb.*) (*Amended by Ord. No. 182, 3/4/96*)

§1-514 MEETINGS; REGULAR MEETING. (1) The meetings of the Governing Body/Board of Trustees shall be held in the Village offices located at 201 South Starr Street in the Village of Broadwater. Regular meetings shall be held on the first (1st) Monday of each month. The hour of the meeting shall be 6:00 o'clock P.M. for the first meeting of November, and at that same time for all meetings through the meeting in April. The meetings beginning in May shall be held at 7:00 o'clock P.M. until the meeting in October of each year.

(2) At all meetings of the Board of Trustees a majority of the Board shall constitute a quorum to do business. (*Ref. 17-204, 17-205, 17-210 RS Neb.*) (*Amended by Ord. No. 234, 2/1/99*)

§1-515 MEETINGS; SPECIAL MEETINGS. Special meetings may be called by the Chairman, or by three (3) members of the Board of Trustees, the object of which shall be submitted to the Board in writing. The call and object, as well as the disposition thereof, shall be entered upon the journal by the Municipal Clerk. On filing the call for a special meeting, the Municipal Clerk shall notify the members of the Board of Trustees of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a member of the Board known to be out of the state, or physically unable to be present. A majority of the members of the Board of Trustees shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day and compel the attendance of the absent members. Whether a quorum is present or not, all absent members shall be sent for and compelled to attend.

At the hour appointed for the meeting, the Municipal Clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the Board shall be called to order by the Chairman, if present, or if absent, by the President of the Board. In the absence of both the Chairman and the President of the Board, the members of the Board of Trustees shall elect a President pro tempore. All Ordinances passed at any special meeting shall comply with procedures set forth in Chapter 1, Article 6 herein. (*Ref. 17-204, 17-205 RS Neb.*)

Broadwater Code

Article 6. Ordinances, Resolutions, and Motions

§1-601 ORDINANCES, RULES, AND RESOLUTIONS; GRANT OF POWER. The Governing Body may make all ordinances, bylaws, rules, regulations, and resolutions, not inconsistent with the laws of the State of Nebraska, as may be expedient for maintaining the peace, good government, and welfare of the Municipality and its trade, commerce, and manufacturing. (*Ref. 17-505 RS Neb.*) (*Amended by Ord. No. 200, 10/6/97*)

§1-602 ORDINANCES; INTRODUCTION. Ordinances shall be introduced by members of the Governing Body in one of the following ways:

- (1) With the recognition of the Chairperson, a member may, in the presence and hearing of a majority of the members elected to the Governing Body, read aloud the substance of the proposed ordinance and file a copy with the Municipal Clerk for future consideration; or
- (2) With the recognition of the Chairperson, a member may present the proposed ordinance to the Clerk who, in the presence and hearing of a majority of the members elected to the Governing Body, shall read aloud the substance of the ordinance and file it for future consideration.

(*Amended by Ord. No. 201, 10/6/97*)

§1-603 RESOLUTIONS AND MOTIONS; PROCEDURE. Resolutions and motions shall be introduced in one of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly read one (1) time in the presence and hearing of a majority of the members elected to the Board. The issue raised by said resolutions or motions shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the Board. A majority vote shall be required to pass any resolution or motion. The vote on any resolution or motion shall be by roll call vote.

§1-604 ORDINANCES; STYLE. The style of all Municipal ordinances shall be:

"Be it ordained by the Chairman and Board of Trustees of the Village of Broadwater, Nebraska:" (*Ref. 17-613 RS Neb.*)

§1-605 ORDINANCES; TITLE. No ordinance shall contain a subject not clearly expressed in its title. (*Ref. 17-614 RS Neb.*)

§1-606 ORDINANCES, RESOLUTIONS, ORDERS, BYLAWS; READING; PASSAGE. Ordinances of a general or permanent nature shall be read by title on three (3) different days unless three-fourths (3/4) of the Governing Body vote to suspend this requirement, except that such requirement shall not be suspended for any ordinance for the annexation of territory. In case such requirement is suspended, the ordinance shall be read by title and then moved for final passage. Three-fourths (3/4) of the Governing Body may require a reading of any ordinance in full before enactment under either procedure set out in this section. All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the Governing Body. On the passage or adoption of every bylaw or ordinance, and every resolution or order to enter into a contract by the Governing Body, the yeas and nays shall be called and recorded. To pass or adopt any bylaw, ordinance, or any such resolution or order, a concurrence of a majority of the whole number of members elected to the Governing Body shall be required. All appointments of the officers by the Governing Body shall be made viva voce; and the concurrence of a like majority shall be required, and the names of those, and for whom they voted, on the vote resulting in an appointment, shall be recorded. The requirements of a roll call or viva voce vote shall be satisfied by a Municipality which utilizes an electronic voting device which allows the yeas and nays of each member of the Governing Body to be readily seen by the public. (*Ref. 17-614, 17-616 RS Neb.*) (*Amended by Ord. Nos. 172, 8/7/95; 202, 10/6/97*)

§1-607 ORDINANCES; PUBLICATION OR POSTING. All ordinances of a general nature shall, before they take effect, be published one (1) time, within fifteen (15) days after they are passed:

(1) In some newspaper published in the Municipality or, if no paper is published in the Municipality, then by posting a

written or printed copy in each of three (3) public places in the Municipality; or

(2) In book or pamphlet form.

(Ref. 17-613 RS Neb.) (Amended by Ord. No. 192, 9/2/97)

§1-608 ORDINANCES; CERTIFICATE OF PUBLICATION OR POSTING. The passage, approval, and publication or posting of an ordinance shall be sufficiently proved by a certificate under the Seal of the Municipality from the Municipal Clerk showing that the ordinance was passed and approved, and when and in what paper the ordinance was published, or when and by whom and where the ordinance was posted. (Ref. 17-613, 17-615 RS Neb.)

§1-609 ORDINANCES; EFFECTIVE DATE; EMERGENCY ORDINANCES. (1) Except as provided in subsection (2) of this section, an ordinance for the government of the Municipality which has been adopted by the Governing Body without submission to the voters of the Municipality shall not go into effect until fifteen (15) days after the passage of the ordinance.

(2) In the case of riot, infectious or contagious diseases, or other impending danger, failure of a public utility, or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the Chairperson and the posting thereof in at least three (3) of the most public places in the Municipality. Such emergency ordinance shall recite the emergency, be passed by a three-fourths (3/4) vote of the Governing Body, and be entered of record on the Municipal Clerk's minutes. (Ref. 17-613, 19-3701 RS Neb.) (Amended by Ord. No. 203, 10/6/97)

§1-610 ORDINANCES; AMENDMENTS AND REVISIONS. No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that an ordinance revising all the ordinances of the Municipality and modifications to zoning or building districts may be adopted as otherwise provided by law. (Ref. 17-614 RS Neb.) (Amended by Ord. No. 204, 10/6/97)

Article 7. Elections

§1-701 ELECTIONS; ELECTION OF OFFICERS; CERTIFICATIONS REQUIRED. No later than July 1 of each even-numbered year, the Village Board shall certify to the Election Commissioner or the County Clerk, on forms prescribed by such official, the name of the Village, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office. (*Ref. 32-404 RS Neb.*) (*Amended by Ord. Nos. 183, 3/4/96; 247, 10/2/00; 291, 9/7/05*)

§1-701.01 ELECTIONS; GENERALLY. (A) All Municipal issues and offices shall be combined on the statewide primary and general election ballots whenever possible. The issuance of separate ballots shall be avoided in a statewide election if Municipal offices or issues can reasonably be combined with the nonpartisan ballot and state law does not require otherwise. All Municipal elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide primary or general election. (*Ref. 32-556 RS Neb.*)

(B) When the Municipality holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act. Any other election held by the Municipality shall be held as provided in the Election Act unless otherwise provided by the charter, code, or bylaws of the Municipality. (*Ref. 32-404 RS Neb.*) (*Ord. No. 291, 9/7/05*)

§1-702 ELECTIONS; TERM OF OFFICE. All elected officers of the Municipality shall serve a term of four (4) years and until their successors are elected and have qualified. (*Ref. 17-203.01 RS Neb.*)

§1-703 ELECTIONS; TIE VOTES. In the case of a tie vote of any of the candidates in either the primary or general election, the County Clerk shall notify such candidates to appear at his office on a

given day and hour to determine the same by lot before the canvassing board, and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail. (*Ref. 17-202 RS Neb.*)

§1-704 ELECTIONS; JOINT, GENERAL. The general Municipal election shall be held in accordance with the provisions of Chapter thirty-two (32), Revised Statutes of Nebraska. The Governing Body has determined, by ordinance duly adopted, to hold the Municipal Election in conjunction with the Statewide Primary Election, held on the first (1st) Tuesday after the second (2nd) Monday in May of each even numbered year. Prior to February one (1) of the year, in which the first such joint election takes place, the Governing Body shall receive the consent in writing of the County Board to so hold the election and such authorization shall be prescribed according to State law. The County Clerk shall have charge of the election and shall have the authority to deputize the Municipal Clerk for Municipal election purposes. (*Ref. 32-505, 32-4,147 RS Neb.*)

§1-705 ELECTIONS; JOINT, GENERAL, NOTICE. The County Clerk shall publish in a newspaper designated by the County Board the notice of the election no less than forty (40) days prior to the Primary or General Election. This notice will serve the notice requirement for all Municipal Elections which are held in conjunction with the County. (*Ref. 32-402.01 RS Neb.*)

§1-706 ELECTIONS; SPECIAL. (A)(1) Except as provided in section 77-3444 RS Neb., any issue to be submitted to the registered voters at a special election by the village shall be certified by the Village Clerk to the Election Commissioner or County Clerk at least fifty (50) days prior to the election. A special election may be held by mail as provided in sections RS 32-952 through 32-959 RS Neb.. Any other special election shall be subject to division (B) of this section.

(2) In lieu of submitting the issue at a special election, the Village may submit the issue at a statewide primary or general

election or at any scheduled county election, except that no such issue shall be submitted at a statewide election or scheduled county election unless the issue to be submitted has been certified by the Village Clerk to the Election Commissioner or County Clerk by March 1 for the primary election and by September 1 for the general election.

(3) After the Election Commissioner or County Clerk has received the certification of the issue to be submitted, he or she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the Village Clerk shall be responsible for the publication or posting of any required special notice of the submission of such issue other than the notice required to be given of the statewide election issues. The Election Commissioner or County Clerk shall prepare the ballots and issue absentee ballots and shall also conduct the submission of the issue, including the receiving and counting of ballots on the issue. The election returns shall be made to the Election Commissioner or County Clerk. The ballots, including absentee ballots, shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the County Canvassing Board, the Election Commissioner or County Clerk shall certify the election results to the Board of Trustees. The canvass by the County Canvassing Board shall have the same force and effect as if made by the Board of Trustees. (*Ref. 32-559 RS Neb.*)

(B) Any special election under the Election Act shall be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically provided. No special election shall be held under the Election Act in April, May, June, October, November, or December of an even-numbered year unless it is held in conjunction with the statewide primary or general election. (*Ref. 32-405 RS Neb.*) (*Amended by Ord. Nos. 205, 10/6/97; 283, 7/5/04*)

§1-707 ELECTIONS; FILING FEE. Prior to the filing of any nomination papers, there shall be paid to the Municipal Treasurer a filing fee which shall amount to one (1%) percent of the annual salary for the office for which the candidate will file; provided, there shall be

no filing fee for any candidate filing for an office in which a per diem is paid rather than a salary, or an office for which there is a salary of less than five hundred (\$500.00) dollars per year. No nominating papers shall be filed until the proper Municipal Treasurer's receipt, showing the payment of the filing fee, shall be presented to the election officer with whom the nomination papers are to be filed. (*Ref. 32-513 RS Neb.*)

§1-708 ELECTIONS; PETITION, WRITE-IN AND OTHER CANDIDATES FOR GENERAL ELECTION BALLOT; PROCEDURES. (A) (1) Any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot for a partisan office by filing petitions as prescribed in this section and section 32-621 RS Neb. or by nomination by political party convention or committee.

(2) Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot if a vacancy exists on the ballot under subsection (2) of section 32-625 RS Neb. and the candidate files for the office by petition as prescribed in this section or files as a write-in candidate as prescribed in section 32-615 RS Neb. (*Ref. 32-616 RS Neb.*)

(B) Petitions for nomination shall conform to the requirements of section 32-628 RS Neb. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. Petitions shall be signed by registered voters residing in the ward in which the officer is to be elected, if candidates are chosen by ward, or residing in the municipality, if candidates are not chosen by ward, and shall be filed with the filing officer in the same manner as provided for candidate filing forms in section 32-607 RS Neb. Petition signers and circulators shall conform to the requirements of sections 32-629 and 32-630 RS Neb. No petition for nomination shall be filed unless there is attached thereto a receipt showing payment of the filing fee required pursuant to section 32-608 RS Neb. The petitions shall be filed by September 1 in the year of the general election. (*Ref. 32-617 RS Neb.*)

(C) (1) The number of signatures of registered voters needed to place the name of a candidate upon the nonpartisan ballot for the general election shall be at least ten percent (10%) of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election in the ward in which the officer is to be elected or in the Municipality, as appropriate.

(2) The number of signatures of registered voters needed to place the name of a candidate upon the partisan ballot for the general election shall be at least twenty percent (20%) of the total vote for Governor or President of the United States at the immediately preceding general election within the Municipality, not to exceed 2000. (*Ref. 32-618 RS Neb.*) (*Amended by Ord. Nos. 218, 2/1/99; 272, 12/1/03*)

§1-709 ELECTIONS; CAUCUS CANDIDATES. The Governing Body of the Municipality may, by ordinance call a caucus for the purpose of nominating candidates for offices to be filled in the Village election. Such caucus shall be held at least ten (10) days prior to the filing deadline for such election. Notice of such caucus must be published in one (1) newspaper of general circulation in the Municipality, at least once in each of two (2) consecutive weeks prior to said caucus. The Municipal Clerk shall notify the person so nominated of his nomination and such notification shall take place not less than five (5) days after the said caucus. A candidate so nominated shall not have his name placed upon the ballot unless, not more than ten (10) days after the holding of such caucus, he shall have filed with the Municipal Clerk a written statement accepting the nomination of the caucus and shall have paid the filing fee, if any, for the office for which he was nominated. (*Ref. 17-601.01 through 17-603 RS Neb.*)

§1-710 ELECTIONS; OFFICIALS. (*Repealed by Ord. No. 220, 2/1/99*)

§1-711 ELECTIONS; OFFICIALS OATH. (*Repealed by Ord. No. 220, 2/1/99*)

§1-712 ELECTIONS; VOTER QUALIFICATIONS. Electors shall mean every person of the constitutionally prescribed age or upwards, who shall have the right to vote for all officers to be elected to public office, and upon all questions and proposals, lawfully submitted to the voters at any and all elections authorized or provided for by the Constitution or the laws of the State of Nebraska, except school elections; provided, no person shall be qualified to vote at any election unless such person shall be a resident of the State and shall have been properly registered with the election official of the county. *(Ref. 17-602, 32-102 RS Neb.)*

§1-713 ELECTIONS; BOARD OF TRUSTEES. Board of Trustee members shall be elected from the Municipality at large unless the residents of the Municipality have voted to elect its Board members by wards. Board members shall serve for a term of four (4) years and shall be a resident and qualified elector. If the election of Board members takes place by wards, each nominee for Board member shall be a resident and qualified elector of the ward for which he or she is a candidate, and only residents of that ward may sign the candidates' nomination petitions. *(Ref. 5-108 RS Neb.)*

§1-714 ELECTIONS; BALLOTS. The County Clerk shall provide printed ballots for every general Municipal election and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the Municipality. *(Ref. 32-417, 32-418 RS Neb.)*

§1-715 ELECTIONS; CERTIFICATE OF NOMINATION OR ELECTION. *(Repealed by Ord. No. 291, 9/7/05)*

§1-716 ELECTIONS; INABILITY TO ASSUME OFFICE. *(Repealed by Ord. No. 273, 12/1/03)*

§1-717 ELECTIONS; RECALL PROCEDURE. *(Repealed by Ord. No. 284, 7/5/04)*

§1-718 ELECTIONS; BOARD OF TRUSTEES; TERMS; QUALIFICATIONS. (1) The members of the Village Board of Trustees shall be elected from the Municipality at large unless the registered voters of the Municipality have voted to elect its Board members by wards.

(2) The members of the Village Board of Trustees shall be elected at the statewide general election as provided in section 17-202 RS Neb., and each four years thereafter. Except as provided in such section, the term of each Trustee shall be four years or until his or her successor is elected and qualified.

(3) Any person may be a Trustee who is a citizen of the United States, resides in the Village, and is a registered voter. (*Ref. 17-202, 17-203, 32-532, 32-554 RS Neb.*) (*Amended by Ord. No. 184, 3/4/96*)

§1-719 ELECTIONS; EXIT POLLS. No person shall conduct any exit poll, public opinion poll, or any other interview with voters on election day seeking to determine voter preference within twenty (20') feet of the entrance of any polling place room or, if inside the polling place building, within one hundred (100') feet of any voting booth. (*Ref. 32-1221 RS Neb.*)

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Article 8. Fiscal Management

§1-801 FISCAL MANAGEMENT; FISCAL YEAR. The fiscal year of the Municipality and any public utility of the Municipality commences on October 1 and extends through the following September 30 except as provided in the Municipal Proprietary Function Act. (*Ref. 17-701 RS Neb.*) (*Amended by Ord. No. 185, 3/4/96*)

§1-802 FISCAL MANAGEMENT; PROPOSED BUDGET STATEMENT; CONTENTS; AVAILABILITY; CORRECTION.

(A) The Governing Body shall annually prepare a proposed budget statement on forms prescribed and furnished by the Auditor of Public Accounts. The proposed budget statement shall be made available to the public prior to publication of the notice of the hearing on the proposed budget statement. A proposed budget statement shall contain the following information, except as provided by state law:

(1) For the immediately preceding fiscal year, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately stated as to each such source: The unencumbered cash balance at the beginning and end of the year; the amount received by taxation of personal and real property; and the amount of actual expenditures;

(2) For the current fiscal year, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds and separately stated as to each such source: The actual unencumbered cash balance available at the beginning of the year; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. Such statement shall contain the cash reserve for each fiscal year and shall note whether or not such reserve is encumbered. Such cash reserve projections shall be based upon the actual experience of prior years. The cash reserve shall not exceed fifty percent (50%) of the total budget adopted exclusive of capital outlay items;

(3) For the immediately ensuing fiscal year, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed fifty percent (50%) of the total budget adopted exclusive of capital outlay items;

(4) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property:

(a) For the purpose of paying the principal or interest on bonds issued by the Governing Body and

(b) for all other purposes;

(5) A uniform summary of the proposed budget statement, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand total of all funds maintained by the Governing Body; and

(6) A list of the proprietary functions which are not included in the budget statement. Such proprietary functions shall have a separate budget statement which is approved by the Governing Body as provided in the Municipal Proprietary Function Act.

(B) The actual or estimated unencumbered cash balance required to be included in the budget statement by this section shall include deposits and investments of the municipality as well as any funds held by the County Treasurer for the Municipality and shall be accurately stated on the proposed budget statement.

(C) The Municipality shall correct any material errors in the budget statement detected by the Auditor of Public Accounts or by other sources. (*Ref. 13-504 RS Neb.*)

(D) The estimated expenditures plus the required cash reserve for the ensuing fiscal year less all estimated and actual unencumbered balances at the beginning of the year and less the estimated income

from all sources, including motor vehicle taxes, other than taxation of personal and real property shall equal the amount to be received from taxes, and such amount shall be shown on the proposed budget statement pursuant to this section. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year. (*Ref. 13-505 RS Neb.*) (*Amended by Ord. Nos. 160, 9/6/94; 206, 10/6/97; 222, 2/1/99; 255, 5/7/01; 275, 12/1/03*)

§1-803 FISCAL MANAGEMENT; PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF TAX AMOUNT.

(1) The Governing Body shall each year conduct a public hearing on its proposed budget statement. Notice of the place and time of the hearing, together with a summary of the proposed budget statement shall be published at least five (5) days prior to the date set for the hearing in a newspaper of general circulation within the Municipality.

(2) After the hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of such hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted, or is amended and adopted as amended. The certification of the amount to be received from personal and real property taxation shall specify separately (a) the amount to be applied to the payment of principal or interest on bonds issued by the Governing Body and (b) the amount to be received for all other purposes.

(3) If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within twenty (20) days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for such changes.

(4) When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase. (*Ref. 13-506, 13-507 RS Neb.*) (*Amended by Ord. Nos. 223, 2/1/99; 276, 12/1/03*)

§1-804 FISCAL MANAGEMENT; ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION OF AMOUNT OF TAX.

(1) After publication and hearing on the proposed budget statement and within the time prescribed by law, the Governing Body shall file with and certify to the levying board on or before September 20 of each year and file with the Auditor of Public Accounts, a copy of the adopted budget statement, together with the amount of the tax required to fund the adopted budget, setting out separately (a) the amount to be levied for the payment of principal or interest on bonds issued by the Governing Body and (b) the amount to be levied for all other purposes. Proof of publication shall be attached to the statements.

(2) The Governing Body, in certifying the amount required, may make allowance for delinquent taxes not exceeding five percent (5%) of the amount required plus the actual percentage of delinquent taxes for the preceding tax year and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year which is still pending. Except for such allowances, the Governing Body shall not certify an amount of tax more than one percent (1%) greater or lesser than the amount determined in the proposed budget statement.

(3) The Governing Body may designate one of its members to perform any duty or responsibility required of such body by this section. (*Ref. 13-508 RS Neb.*) (*Amended by Ord. Nos. 186, 3/4/96; 207, 10/6/97; 224, 2/1/99*)

§1-804.01 FISCAL MANAGEMENT; EXPENDITURES PRIOR TO ADOPTION OF BUDGET.

(1) On and after the first day of its

fiscal year in 1993 and of each succeeding year and until the adoption of the budget by the Governing Body in September, the Governing Body may expend any balance of cash on hand for the current expenses of the Municipality. Except as provided in subsection (2) of this section, such expenditures shall not exceed an amount equivalent to the total amount expended under the last budget in the equivalent period of the prior budget year. Such expenditures shall be charged against the appropriations for each individual fund or purpose as provided in the budget when adopted.

(2) The restriction on expenditures in subsection (1) of this section may be exceeded upon the express finding of the Governing Body that expenditures beyond the amount authorized are necessary to enable the Municipality to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the statutory authorization shall be adopted by the Governing Body in open public session. Expenditures authorized by this section shall be charged against appropriations for each individual fund or purpose as provided in the budget when adopted, and nothing in this section shall be construed to authorize expenditures by the Municipality in excess of that authorized by any other statutory provision. (*Ref. 13-509.01, 13-509.02 RS Neb.*) (*Ord. No. 173, 8/7/95*)

§1-804.02 FISCAL MANAGEMENT; REVISION OF BUDGET.

(A) Unless otherwise provided by law, the Governing Body may propose to revise the previously adopted budget statement and shall conduct a public hearing on such proposal whenever during the current fiscal year it becomes apparent to the Governing Body that:

(1) There are circumstances which could not reasonably have been anticipated at the time the budget for the current year was adopted;

(2) The budget adopted violated sections 13-518 to 13-522 RS Neb., such that the revenue of the current fiscal year for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with sections 13-518 to 13-522 RS Neb.; or

(3) The Governing Body has been notified by the Auditor of Public Accounts of a mathematical or accounting error or noncompliance with the Nebraska Budget Act.

(B) Notice of the time and place of the hearing shall be published at least five (5) days prior to the date set for hearing in a newspaper of general circulation within the Municipality. Such published notice shall set forth:

(1) The time and place of the hearing;

(2) The amount in dollars of additional or reduced money required and for what purpose;

(3) A statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year to meet the need for additional money in that manner;

(4) A copy of the summary of the originally adopted budget previously published; and

(5) A copy of the summary of the proposed revised budget.

(C) At such hearing any taxpayer may appear or file a written statement protesting any application for additional money. A written record shall be kept of all such hearings.

(D) Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the Governing Body, the Governing Body shall file with the County Clerk of the county or counties in which such Governing Body is located, and with the Auditor of Public Accounts, a copy of the revised budget, as adopted. The Governing Body may then issue warrants in payment for expenditures authorized by the adopted revised budget. Such warrants shall be referred to as registered warrants and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

(E) Within thirty (30) days after the adoption of the budget under section 13-506 RS Neb., a Governing Body may, or within thirty (30) days after notification of an error by the Auditor of Public Accounts, a Governing Body shall, correct an adopted budget which contains a

clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than one percent (1%) or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the Governing Body shall file a copy of the corrected budget with the County Clerk of the county or counties in which such Governing Body is located and with the Auditor of Public Accounts. The Governing Body may then issue warrants in payment for expenditures authorized by the budget. (*Ref. 13-511 RS Neb.*) (*Ord. No. 250, 10/2/00*) (*Amended by Ord. Nos. 262, 10/7/02; 277, 12/1/03*)

§1-805 FISCAL MANAGEMENT; BUDGET PROCEDURE.

The Manual of Instructions for City/Village: Budgets, prepared by the Auditor of Public Accounts, State Capitol, Lincoln, Nebraska 68509 is incorporated by reference for the purpose of proper budget preparation.

§1-806 FISCAL MANAGEMENT; APPROPRIATIONS. The Governing Body shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill", in which are appropriated such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the City. (*Ref. 17-706 RS Neb.*) (*Amended by Ord. No. 187, 3/4/96*)

§1-807 FISCAL MANAGEMENT; ALL PURPOSE LEVY; ALLOCATION; ABANDONMENT; EXTRAORDINARY LEVIES.

(1) The Governing Body has decided to certify to the County Clerk for collection one all-purpose levy required to be raised by taxation for all municipal purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits in section 77-3442 RS Neb., the all-purpose levy shall not exceed the annual levy specified in section 19-1309 RS Neb. to be levied upon the taxable valuation of all taxable property in the Municipality.

(2) The amount of the all-purpose levy shall be certified as a single amount for general fund purposes. The Governing Body shall

allocate the amount raised by the all-purpose levy to the several departments of the Municipality in its annual budget and appropriation ordinance, or in other legal manner, as the Governing Body deems wisest and best.

(3) The Municipality shall be bound by its election to follow the all-purpose levy method during the ensuing fiscal year but may abandon such method in succeeding fiscal years.

(4) Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the Municipality may be made by the Municipality in addition to the all-purpose levy. (*Ref. 19-1309 through 19-1312 RS Neb.*) (*Amended by Ord. No. 227, 2/1/99*)

§1-808 FISCAL MANAGEMENT; EXTRAORDINARY LEVY.
(*Repealed by Ord. No. 227, 2/1/99*)

§1-809 FISCAL MANAGEMENT; INADEQUATE VALUATION. (*Repealed by Ord. No. 228, 2/1/99*)

§1-810 FISCAL MANAGEMENT; ALL PURPOSE LEVY, ALLOCATION. (*Repealed by Ord. No. 227, 2/1/99*)

§1-811 FISCAL MANAGEMENT; ALL PURPOSE LEVY, ABANDONMENT. (*Repealed by Ord. No. 227, 2/1/99*)

§1-812 FISCAL MANAGEMENT; PROPERTY TAX; CERTIFICATION OF AMOUNT. The Governing Body shall, at the time and in the manner provided by law, cause to be certified to the County Clerk the amount of tax to be levied upon the taxable value of all the taxable property of the Municipality which the Municipality requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. Subject to section 77-3442 RS Neb., the maximum amount of tax which may be so certified, assessed, and collected shall not require a tax levy in excess of the amounts specified in section 17-702 RS Neb. (*Ref. 17-702 RS Neb.*) (*Amended by Ord. No. 225, 2/1/99*)

§1-813 FISCAL MANAGEMENT; EXPENDITURES.

No Municipal official shall have the power to appropriate, issue, or draw any order or warrant on the Municipal Treasury for money, unless the same has been appropriated or ordered by ordinance. No expenditure for any improvement to be paid for out of the general fund of the Municipality shall exceed in any one (1)

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year the amount provided for that improvement in the adopted budget statement. (*Ref. 17-708 RS Neb.*)

§1-814 FISCAL MANAGEMENT; CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS.

(1) Except as provided in section 18-412.01 RS Neb. for a contract with a public power district to operate, renew, replace, or add to the electric distribution, transmission, or generation system of the Municipality, no contract for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, costing over twenty thousand dollars (\$20,000.00) shall be made unless it is first approved by the Governing Body.

(2) Except as provided in section 18-412.01 RS Neb., before the Governing Body makes any contract in excess of twenty thousand dollars (\$20,000.00) for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the Municipal Engineer and submitted to the Governing Body. In advertising for bids as provided in subsections (3) and (5) of this section, the Governing Body may publish the amount of the estimate.

(3) Advertisements for bids shall be required for any contract costing over twenty thousand dollars (\$20,000.00) entered into (a) for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, or (b) for the purchase of equipment used in the construction of such enlargement or general improvements.

(4) A Municipal Electric Utility may enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for such enlargement or improvement without advertising for bids if the price is: (a) Twenty thousand

dollars (\$20,000.00) or less; (b) forty thousand dollars (\$40,000.00) or less and the Municipal Electric Utility has gross annual revenue from retail sales in excess of one million dollars (\$1,000,000.00); (c) sixty thousand dollars (\$60,000.00) or less and the Municipal Electric Utility has gross annual revenue from retail sales in excess of five million dollars (\$5,000,000.00); or (d) eighty thousand dollars (\$80,000.00) or less and the Municipal Electric Utility has gross annual revenue from retail sales in excess of ten million dollars (\$10,000,000.00).

(5) The advertisement provided for in subsection (3) of this section shall be published at least seven (7) days prior to the bid closing in a legal newspaper published in or of general circulation in the Municipality and, if there is no legal newspaper published in or of general circulation in the Municipality, then in some newspaper of general circulation published in the county in which the Municipality is located, and if there is no legal newspaper of general circulation published in the county in which the Municipality is located, then in a newspaper, designated by the County Board, having a general circulation within the county where bids are required, and if no newspaper is published in the Municipality or county, or if no newspaper has general circulation in the county, then by posting a written or printed copy thereof in each of three (3) public places in the Municipality at least seven (7) days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of, or serious injury or damage to, life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by section 17-613 RS Neb. when adopted by a three-fourths (3/4) vote of the Governing Body and entered of record.

(6) If, after advertising for bids as provided in this section, the Governing Body receives fewer than two (2) bids on a contract or if the bids received by the Governing Body contain a price which exceeds the estimated cost, the Governing Body may negotiate a

contract in an attempt to complete the proposed enlargement or general improvements at a cost commensurate with the estimate given.

(7) If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the Governing Body, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the purchasing Municipality, the Governing Body may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.

(8) Any Municipal bidding procedure may be waived by the Governing Body (a) when materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the State bidding procedure in sections 81-145 to 81-162 RS Neb. or (b) when the contract is negotiated directly with a sheltered workshop pursuant to section 48-1503 RS Neb.

(9) Notwithstanding any other provisions of law or a home rule charter, a Municipality which has established, by an interlocal agreement with any county, a joint purchasing division or agency may purchase personal property without competitive bidding if the price for the property has been established by the federal General Services Administration or the materiel division of the Department of Administrative Services. For purposes of this subsection:

(a) Personal property includes, but is not limited to, supplies, materials, and equipment used by or furnished to any officer, office, department, institution, board, or other agency; and

(b) Purchasing or purchase means the obtaining of personal property by sale, lease, or other contractual means. (*Ref. 17-568.01, 17-568.02, 18-1756 RS Neb.*) (*Amended by Ord. No. 230, 2/1/99*)

§1-815 FISCAL MANAGEMENT; PROPERTY TAX AND REQUEST LEVY; AUTHORITY TO SET. (1) The property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of

Equalization in section 77-1601 RS Neb. unless the Board of Trustees passes by a majority vote a resolution or ordinance setting the tax request at a different amount. Such resolution or ordinance shall only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in the area of the Municipality at least five (5) days prior to the hearing.

(2) The hearing notice shall contain the following information:

(a) The dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request;

(b) The property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and

(c) The proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request.

(3) Any resolution setting a tax request under this section shall be certified and forwarded to the County Clerk prior to October 14 of the year for which the tax request is to apply.

(4) Any tax levy which is not in compliance with this section and section 77-1601 RS Neb. shall be construed as an unauthorized levy under section 77-1606 RS Neb. (*Ref. 77-1601.02 RS Neb.*) (*Ord. No. 208, 10/6/97*) (*Amended by Ord. Nos. 226, 2/1/99; 248, 10/2/00*)

§1-816 FISCAL MANAGEMENT; INVESTMENT OF FUNDS.

Whenever a Village has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the Governing Body of such Village may invest any such surplus in certificates of deposit, in time deposits, and in any securities in which the State Investment Officer is authorized by law and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. (*Ref. 17-608, 17-609, 21-1316.01, 77-2341 RS Neb.*) (*Ord. No. 215, 3/2/98*)

§1-817 FISCAL MANAGEMENT; PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED. (A) Property tax levies for the support of the Village for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this division (A), except as provided in division (C). The Village may levy a maximum levy of \$0.45 per \$100 of taxable valuation of property subject to the levy plus an additional \$0.05 per \$100 of taxable valuation to provide financing for the Village's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201 RS Neb., museum pursuant to section 51-501 RS Neb., visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637 RS Neb., or statue, memorial, or monument pursuant to section 80-202 RS Neb. Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against the Village which require or obligate the village to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of the Village, for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this division (A). The limitations on tax levies provided in this division (A) are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this division (A) are those provided by or authorized by this section. Tax levies in excess of the limitations in this section shall be considered unauthorized levies under section 77-1606 RS Neb. unless approved under division (C). (*Ref. 77-3442 RS Neb.*)

(B) (1) All city airport authorities established under the Cities Airport Authorities Act, and community redevelopment authorities established under the Community Development Law may be allocated

property taxes as authorized by law which are authorized by the Village and are counted in the municipal levy limit provided by division (A), except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport. The Board of Trustees shall review and approve or disapprove the levy request of the political subdivisions subject to this division (B). The Board of Trustees may approve all or a portion of the levy request and may approve a levy request that would allow a levy greater than that permitted by law. The levy allocated by the Village may be exceeded as provided in division (C).

(2) On or before August 1, all political subdivisions subject to municipal levy authority under this division (B) shall submit a preliminary request for levy allocation to the Board of Trustees. The preliminary request of the political subdivision shall be in the form of a resolution adopted by a majority vote of members present of the political subdivision's governing body. The failure of a political subdivision to make a preliminary request shall preclude such political subdivision from using procedures set forth in section 77-3444 RS Neb. to exceed the final levy allocation as determined in this division (B).

(3) (a) The Board of Trustees shall:

- (i) Adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions; and
- (ii) Forward a copy of such resolution to the chairperson of the governing body of each of its political subdivisions.

(b) No final levy allocation shall be changed after September 1 except by agreement between both the Board of Trustees and the governing body of the political subdivision whose final levy allocation is at issue. (*Ref. 77-3443 RS Neb.*)

(C) (1) The village may exceed the limits provided in division (A) by an amount not to exceed a maximum levy approved by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to exceed the limits must be approved prior to October 10 of the fiscal year which is to be the first to exceed the limits.

(2) The Board of Trustees may call for the submission of the issue to the voters:

(a) By passing a resolution calling for exceeding the limits by a vote of at least two-thirds (2/3) of the members of the Board of Trustees and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the Village; or

(b) Upon receipt of a petition by the County Clerk or Election Commissioner of every county containing all or part of the Village requesting an election signed by at least five percent (5%) of the registered voters residing in the Village.

(3) The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in division (A) and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than five (5) years. Any resolution or petition calling for a special election shall be filed with the County Clerk or Election Commissioner no later than thirty (30) days prior to the date of the election, and the time of publication and providing a copy of the notice of election required in section 32-802 RS Neb. shall be no later than twenty (20) days prior to the election.

(4) The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least thirty (30) days after receipt of the resolution or petition. The election shall be held pursuant to the Election Act. For petitions filed with the County Clerk or Election Commissioner on or after May 1, 1998, the petition shall be in the form as provided in sections 32-628 through 32-631 RS Neb.

(5) Any excess levy authority approved under this division (C) shall terminate pursuant to its terms, on a vote of the Board of

Trustees to terminate the authority to levy more than the limits, at the end of the fourth fiscal year following the first year in which the levy exceeded the limit, or as provided in division (C)(8), whichever is earliest.

(6) The Board of Trustees may pass no more than one (1) resolution calling for an election pursuant to this division (C) during any one (1) calendar year. Only one (1) election may be held in any one (1) calendar year pursuant to a petition initiated under this division (C). The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the language specified in section 77-3444 RS Neb.

(7) If a majority of the votes cast upon the ballot question are in favor of such tax, the County Board shall authorize a tax in excess of the limits in division (A), but such tax shall not exceed the amount stated in the ballot question. If a majority of those voting on the ballot question are opposed to such tax, the Board of Trustees shall not impose such tax.

(8) In lieu of the election procedures in this division (C), the Village may approve a levy in excess of the limits in division (A) for a period of one (1) year at a meeting of the residents of the Village, called after notice is published in a newspaper of general circulation in the Village at least twenty (20) days prior to the meeting. At least 10% of the registered voters residing in the Village shall constitute a quorum for purposes of taking action to exceed the limits. If a majority of the registered voters present at the meeting vote in favor of exceeding the limits, a copy of the record of that action shall be forwarded to the County Board prior to October 10 and the County Board shall authorize a levy as approved by the residents for the year. If a majority of the registered voters present at the meeting vote against exceeding the limits, the limit shall not be exceeded and the Village shall have no power to call for an election under this division (C).

(9) (a) The Village may rescind or modify a previously approved excess levy authority prior to its expiration by a majority of registered voters voting on the issue in a primary, general, or special

election at which the issue is placed before the registered voters. A vote to rescind or modify must be approved prior to October 10 of the fiscal year for which it is to be effective.

(b) The Board of Trustees may call for the submission of the issue to the voters:

(i) By passing a resolution calling for the rescission or modification by a vote of at least two-thirds (2/3) of the members of the Board of Trustees and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the village; or

(ii) Upon request of a petition by the County Clerk or Election Commissioner of every county containing all or part of the Village requesting an election signed by at least five percent (5%) of the registered voters residing in the Village.

(c) The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either such excess levy authority will be rescinded or such excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of such modification shall be stated. The modification shall not have a duration greater than five (5) years. The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least thirty (30) days after receipt of the resolution or petition, and the time of publication and providing a copy of the notice of election required in section 32-802 RS Neb. shall be no later than twenty (20) days prior to the election. The election shall be held pursuant to the Election Act. (*Ref. 77-3444 RS Neb.*) (*Ord. No. 221, 2/1/99*) (*Amended by Ord. Nos. 249, 10/2/00; 278, 12/1/03*)

§1-818 FISCAL MANAGEMENT; CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS. (1) The Municipal Treasurer may, upon resolution of the Governing Body authorizing the same, purchase certificates of deposit from and make time deposits in any bank, capital stock financial institution, or qualifying

mutual financial institution in the State of Nebraska to the extent that such certificates of deposit or time deposits are insured by the Federal Deposit Insurance Corporation. Deposits may be made in excess of the amounts so secured by the corporation, and the amount of the excess deposit shall be secured by a bond or by security given in the manner provided in this section. The provisions of section 77-2366 RS Neb. shall apply to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions. (*Ref. 17-720 RS Neb.*)

(2) For the security of the fund so deposited, the Municipal Treasurer shall require each depository to give bond for the safekeeping and payment of such deposits and the accretions thereof, which bond shall run to the Municipality and be approved by the Chairperson. The bond shall be conditioned that such a depository shall, at the end of every quarter, render to the Treasurer a statement in duplicate, showing the several daily balances, the amount of money of the Municipality held by it during the quarter, the amount of the accretion thereto, and how credited. The bond shall also be conditioned that the depository shall generally do and perform whatever may be required by the provisions of this section and all regulations imposed by law or adopted by the Governing Body for the receiving and holding thereof and shall faithfully discharge the trust reposed in the depository. The bond shall be as nearly as practicable in the form provided in section 77-2304 RS Neb. No person in any person in any way connected with any depository as an officer or stockholder shall be accepted as a surety on any bond given by the depository of which he or she is an officer or stockholder. The bond shall be deposited with the Municipal Clerk.

(3) In lieu of the bond required by subsection (2) of this section, any bank or capital stock financial institution making application to become a depository may give security as provided in the Public Funds Deposit Security Act to the Municipal Clerk. The penal sum of such bond shall be equal to or greater than the amount of the deposit in excess of that portion of such deposit insured by the Federal Deposit Insurance Corporation.

(4) The Treasurer shall not have on deposit in any bank or capital stock financial institution at any time more than the amount insured by the Federal Deposit Insurance Corporation plus the maximum amount of the bond given by the bank or capital stock financial institution if the bank or capital stock financial institution gives a surety bond, nor in any bank or capital stock financial institution giving a personal bond, more than the amount insured by the Federal Deposit Insurance Corporation plus one-half of the amount of the bond of such bank or capital stock financial institution, and the amount so on deposit any time with any such bank or capital stock financial institution shall not in either case exceed the amount insured by the Federal Deposit Insurance Corporation plus the paid-up capital stock and surplus of such bank or capital stock financial institution. The Treasurer shall not be liable for any loss sustained by reason of the failure of any such bonded depository whose bond has been duly approved by the Chairperson as provided in subsection (2) of this section or which has, in lieu of a surety bond, given security as provided in subsection (3) of this section. (*Ref. 17-720, 16-714 through 16-716 RS Neb.*) (*Ord. No. 229, 2/1/99*) (*Amended by Ord. No. 263, 10/7/02*)

§1-819 FISCAL MANAGEMENT; DEPOSIT OF FUNDS.

(A) The Village Treasurer shall deposit, and at all times keep on deposit, for safekeeping, in banks, capital stock financial institutions, or qualifying mutual financial institutions of approved and responsible standing, all money collected, received, or held by him or her as Village Treasurer. Such deposits shall be subject to all regulations imposed by law or adopted by the Board of Trustees for the receiving and holding thereof. The fact that a stockholder, director, or other officer of such bank, capital stock financial institution, or qualifying mutual financial institution is also serving as a member of the Board of Trustees or as any other officer of the village shall not disqualify such bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such municipal funds.

(B) The Board of Trustees shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions (1) a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or, in lieu thereof, (2) security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The Board of Trustees shall approve such bond or giving of security. The Village Treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved. (*Ref. 17-607 RS Neb.*)

(C) The insurance afforded to depositors in banks, capital stock financial institutions, or qualifying mutual financial institutions through the Federal Deposit Insurance Corporation shall be deemed and construed to be a surety bond to the extent that the deposits are insured by such corporation, and for deposits so insured, no other surety bond or other security shall be required. (*Ref. 77-2362 RS Neb.*)

(D) Section 77-2366 RS Neb. shall apply to deposits in capital stock financial institutions. Section 77-2365.01 RS Neb. shall apply to deposits in qualifying mutual financial institutions. (*Ref. 17-607, 77-2362 RS Neb.*) (*Ord. No. 264, 10/7/02*) (*Amended by Ord. Nos. 279, 12/1/03; 285, 7/5/04*)

§1-820 FISCAL MANAGEMENT; ANNUAL AUDIT; FINANCIAL STATEMENTS.

(A) (1) For purposes of this division (A):

(a) ACCOUNTANT shall mean a duly licensed public accountant or certified public accountant who otherwise is not an employee of or connected in any way with the Village;

(b) ANNUAL AUDIT REPORT shall mean the written report of the accountant and all appended statements and schedules relating thereto presenting or recording the findings of an examination or audit of the financial transactions, affairs, or financial condition of the Village and its proprietary functions for the fiscal year immediately prior to the making of such annual report; and

(c) FISCAL YEAR shall mean the fiscal year for the Village or the fiscal year established in section 18-2804 RS Neb. for a proprietary function if different than the municipal fiscal year. (*Ref. 19-2902 RS Neb.*)

(2) The Board of Trustees shall cause an audit of the Village's accounts to be made by a recognized independent and qualified accountant as expeditiously as possible following the close of the fiscal year and to cover all financial transactions and affairs of the Village for such preceding fiscal year. Such audit shall be made on a cash or accrual method at the discretion of the Board of Trustees. Such audit shall be completed and the annual audit report made by such accountant shall be submitted within six (6) months after the close of the fiscal year in any event, unless an extension of time is granted by a written resolution adopted by the Board of Trustees. The Board of Trustees may request a waiver of the audit requirement subject to the requirements of section 84-304 RS Neb. If the Village is required to conduct an audit under section 84-304 RS Neb. and owns or operates any type of public utility or other enterprise which substantially generates its own revenue, the Board of Trustees shall have that phase of the Village's affairs reported separately from the other functions of the Village. The result of such audit shall appear separately in the annual audit report made by the accountant to the Village, and the audit shall be on a cash or accrual basis at the discretion of the Board of Trustees. (*Ref. 19-2903 RS Neb.*)

(3) The annual audit report shall set forth, insofar as possible, the financial position and results of financial operations for each fund or group of accounts of the Village. When the accrual method is selected for the annual audit report, such report shall be in accordance with generally accepted accounting principles. The annual audit report shall also include the professional opinion of the accountant with respect to the financial statements, or, if an opinion cannot be expressed, a declaration that the accountant is unable to express such an opinion with an explanation of the reasons why he or she cannot do so. (*Ref. 19-2904 RS Neb.*)

(4) At least three (3) copies of such annual audit report shall be properly signed and attested by the accountant; two (2) copies shall be filed with the Village Clerk and one (1) copy shall be filed with the Auditor of Public Accounts. The annual audit report filed, together with any accompanying comment or explanation, shall become a part of the public records of the Village Clerk and shall at all times thereafter be open and subject to public inspection. (*Ref. 19-2905 RS Neb.*)

(B) The Board of Trustees shall provide and file with the Village Clerk, not later than August 1 of each year, financial statements showing the Village's actual and budgeted figures for the most recently completed fiscal year. (*Ref. 13-606 RS Neb.*) (*Ord. No. 280, 12/1/03*)

Article 9. Compensation

§1-901 COMPENSATION; MUNICIPAL OFFICIALS. The Compensation of any elective official of the Municipality shall not be increased or diminished during the term for which he shall have been elected except when there has been a merger of offices; Provided, the compensation of the members of the Governing Body, a board, or commission may be increased or diminished at the beginning of the full term of any member whether or not the terms of one or more members commence and end at different times. No elected official may be rehired at a greater salary if he resigns and desires to be rehired during the unexpired term of office. He may be rehired after the term of office during which he resigned at a greater salary. All salaries shall be set by ordinance of the Governing Body and will be available for public inspection at the office of the Municipal Clerk. (Ref. 17-209.02, 17-612 RS Neb.)

§1-902 COMPENSATION; CONFLICT OF INTEREST. For purposes of this Section officer shall mean (a) any member of any Board or Commission of the Municipality, (b) any Appointed Official if such Municipal Official (i) serves on a Board or Commission which spends and administers its own funds and (ii) is dealing with a contract made by such Board or Commission, or (c) any elected Municipal Official. Unless specified otherwise, volunteer firefighters and ambulance drivers shall not be considered officers for purposes of this Section, with respect to their duties as firefighters and ambulance drivers.

No officer of the Municipality shall be permitted to benefit from any contract to which the Municipality is a party. The existence of such an interest in any contract renders the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment thereof with actual knowledge of the prohibited conflict. An action to have a contract declared void under this Section may be brought by the Municipality or by any resident thereof and

must be brought within one (1) year after the contract is signed or assigned. Any such decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the Municipality has benefited thereby. The prohibition in this Section shall apply only when the officer or his or her parent, spouse, or child (a) has a business with which the individual is associated or business association which shall mean a business: (1) in which the individual is a partner, director, or officer or (2) in which the individual or a member of the individual's immediate family is a stockholder of a closed corporation stock worth one thousand (\$1,000.00) dollars or more at fair market value or which represents more than five (5%) per cent equity interest, or is a stockholder of publicly traded stock worth ten thousand (\$10,000.00) dollars or more at fair market value or which represents more than ten (10%) per cent equity interest or (b) will receive a direct pecuniary fee or commission as a result of the contract; Provided however, if such officer (a) is an employee of the business involved in the contract and (b) has no ownership interest or will not receive a pecuniary fee such officer shall not be deemed to have an interest within the meaning of this Section.

The provisions of this Section shall not apply if the interested officer:

- A. Makes a declaration on the record to the Governmental Body responsible for approving the contract regarding the nature and extent of his or her interest, prior to official consideration of the contract;
- B. Does not vote on the matter of granting the contract, except that if the number of members of the Board declaring an interest in the contract would prevent the Board, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and
- C. Does not act for the Municipality as to inspection or performance under the contract in which he or she has an interest.

The receiving of deposits, cashing of checks, and buying and selling of warrants and

bonds of indebtedness of any Municipality by a financial institution shall not be considered a contract under the provisions of this Section. The ownership of less than five (5%) per cent of the outstanding shares of a corporation shall not constitute an interest within the meaning of this Section. Notwithstanding the provisions of subsections A thru C above, if an officer's parent, spouse or child is an employee of the Municipality, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his or her parent, spouse, or child for special action. If an officer has the power to employ personnel and he or she hires his or her parent, spouse, or child, such officer shall disclose the hiring pursuant to subsections 1 thru 5 below, except that if the parent, spouse, or child is already employed in the position at the time the officer takes office and such position does not change, no disclosure need be made. Notwithstanding any other provision of this Section, any contract entered into with an interested officer shall be subject to applicable competitive bidding requirements and shall be fair and reasonable to the Municipality.

The Municipal Clerk shall maintain, separately from other records, a ledger containing the information listed in subsections 1 thru 5 of this Section about every contract entered into by the Municipality in which an officer has an interest as specified above for which disclosure is made as provided in subsections A thru C above. Such information shall be kept in the ledger for five (5) years from the date of the officer's last day in office and shall include the:

1. Names of the contracting parties;
2. Nature of the interest of the officer in question;
3. Date that the contract was approved by the Municipality involved;
4. Amount of the contract; and
5. Basic terms of the contract.

The information supplied relative to the contract shall be provided to the Clerk not later than ten (10) days after the contract has been

signed by both parties. The ledger kept by the Clerk shall be available for public inspection during the normal working hours of the office in which it is kept.

An open account established for the benefit of any Municipality or entity thereof, with a business in which an officer has an interest, shall be deemed a contract subject to the provisions of this Section. The statement required to be filed pursuant to this Section shall be filed within ten (10) days after such account is opened. Thereafter, the Clerk shall maintain a running account of all amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to the provisions of this Section.

Any officer who knowingly violates the provisions of Sections 49-14,103.01 thru 49-14,103.03 RS Neb., shall be guilty of a Class III misdemeanor. Any officer who negligently violates Sections 49-14,103.01 thru 49-14,103.03 RS Neb. shall be guilty of a Class V misdemeanor.

The Municipality may enact ordinances exempting from the provisions of this Section, contracts involving one hundred (\$100.00) dollars or less in which an officer of such Municipality may have an interest.

No officer, including volunteer firefighters and ambulance drivers, shall receive any pay or perquisites from the Municipality other than his or her salary. The Governing Body shall not pay or appropriate any money or other valuable thing to pay a person who is not an officer for the performance of any act, service, or duty, which shall come within the proper scope of the duties of any officer of the Municipality. (Ref. 17-611, 18-305 thru 18-312, 49-14,103.01 thru 49-14,103.03, 70-624.04 RS Neb.)

Article 10. Penal Provision

§1-1001 VIOLATION; PENALTY. (1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred (\$500.00) dollars. A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

(2) (a) Whenever a nuisance exists as defined in this chapter, the Municipality may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (*Ref. 17-207, 17-505, 18-1720, 18-1722 RS Neb.*) (*Amended by Ord. No. 254. 10/2/00*)

Broadwater Code

COMMISSIONS AND BOARDS

Article 1. Standing Committees

§2-101 STANDING COMMITTEES; GENERAL PROVISIONS. At the organizational meeting of the Village Board, the Village Chairman shall appoint members of such standing committees as the Village Board may by ordinance, or resolution, create. The membership of such standing committees may be changed at any time by the Village Chairman. The Village Chairman shall be a member ex officio of each standing committee. The members of the standing committees shall serve a term of office of one (1) year, unless reappointed.

Article 2. Commissions and Boards

§2-201 LIBRARY BOARD. (1) The Library Board shall consist of five (5) appointed members who shall be residents of the Municipality and who shall serve terms of four (4) years. The Governing Body shall appoint the members of the Library Board by a majority vote. Neither the Mayor nor any member of the Governing Body shall be a member of the Library Board. The terms of members serving on the effective date of a change in the number of members shall not be shortened, and any successors to those members shall be appointed as the terms of those members expire. In case of any vacancy by resignation, removal, or otherwise, the Governing Body shall fill the vacancy for the unexpired term.

(2) No member shall receive any pay or compensation for any services rendered as a member of the Library Board. The Governing Body may require the members of the Library Board to give a bond in a sum set by resolution of the Governing Body and conditioned upon the faithful performance of their duties.

(3) At the time of the Board's first (1st) meeting in July of each year, the Board shall organize by selecting from their number a Chairperson and Secretary. No member of the Library Board shall serve in the capacity of both the Chairperson and Secretary of the Board. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings, and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time.

(4) A majority of the Board members shall constitute a quorum for the transaction of business. The Board shall meet at such times as the Governing Body may designate. Special meetings may be held upon the call of the Chairperson, or a majority of the members of the Board.

(5) The Library Board shall have the authority to appoint a Librarian and all other employees. The Board shall have supervisory authority over all employees of the Library including the Librarian.

(6) The Library Board shall have general charge of the Municipal Library and shall establish appropriate rules and regulations for the management, operation, and use of the Library.

All actions of the Board shall be subject to the review and supervision of the Governing Body. The Board shall be responsible for making such reports and performing such additional duties as the Governing Body may designate from time to time. (*Ref. 51-202 RS Neb.*) (*Amended by Ord. Nos. 167, 5/1/95; 231, 7/1/99*)

§2-202 BOARD OF HEALTH. The Governing Body shall appoint the Board of Health which shall consist of three (3) members who are residents of the Municipality. The Board members shall include the Village Chairman, who shall serve as Chairman; the Village Marshal, who shall be the Secretary and quarantine officer; and one other member. The third (3rd) member shall be a physician when a physician is residing permanently in the Municipality. The members of the Board shall serve a one (1) year term of office, unless reappointed, and shall reorganize at the first (1st) meeting in June of each year. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. The Board shall be funded by the Governing Body from time to time from the General Fund. A majority of the Board shall constitute a quorum for the purpose of doing business. The Board shall meet at such times as the Governing Body may designate. Special meetings may be held upon the call of the Chairman, or any two (2) members of the Board. It shall be the duty of the Board to enact rules and regulations which shall have the full force and effect of the law, to safeguard the health of the residents of the Municipality. The Board shall enforce the rules and regulations and provide fines and punishments for any violations thereof. It may regulate, suppress, and prevent the occurrence of nuisances and shall actively enforce all laws of the State of Nebraska and ordinances of the Municipality relating to matters of sanitation which affect the health and safety of the people. The Board shall regularly inspect such premises and businesses as the Governing Body may direct. All actions of the Board shall be subject to the review and supervision of the Governing Body. The Board shall be responsible for making such reports and performing such other duties as the Governing Body

may designate. No member of the Board of Health shall hold more than one (1) Board of Health position. (*Ref. 17-208 RS Neb.*)

§2-203 PLANNING COMMISSION. (1) The Planning Commission shall consist of five (5) regular members who shall represent, insofar as possible, the different professions or occupations in the Municipality, and shall be appointed by the Chairperson, by and with the approval of a majority vote of the members elected to the Board of Trustees. Two (2) of the regular members may be residents of the area over which the Municipality is authorized to exercise extraterritorial zoning and subdivision regulations. When there is a sufficient number of residents in the area over which the Municipality exercises extraterritorial zoning and subdivision regulation, one (1) regular member of the Commission shall be a resident from such area. If it is determined by the Board of Trustees that a sufficient number of residents reside in the area subject to extraterritorial zoning and subdivision regulation, and no such resident is a regular member of the Commission, the first available vacancy on the Commission shall be filled by the appointment of such an individual. For the purposes of this section, a sufficient number of residents shall mean two hundred (200) residents. The term of each regular member shall be three (3) years, except that approximately one-third ($\frac{1}{3}$) of the regular members of the first Commission shall serve for terms of one (1) year, one-third ($\frac{1}{3}$) for terms of two (2) years, and one-third ($\frac{1}{3}$) for terms of three (3) years. All regular members shall hold office until their successors are appointed. Any member may, after a public hearing before the Board of Trustees, be removed by the Chairperson, with the consent of a majority vote of the members elected to the Board of Trustees, for inefficiency, neglect of duty, or malfeasance in office, or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpected portion of the term by the Chairperson.

(2) All regular members of the Commission shall serve without compensation and shall hold no other Municipal office except when appointed to serve on the Board of Adjustment as provided in section 19-908 RS Neb. All members of the Commission may be required, in

the discretion of the Board of Trustees, to give bond in a sum set by resolution of the Board of Trustees, and conditioned upon the faithful performance of their duties. The Commission shall elect its Chairperson and a Secretary from its members and create and fill such other of its offices as it may determine. The term of the Chairperson and Secretary shall be for one (1) year and they shall be eligible for reelection. No member of the Commission shall serve in the capacity of both the Chairperson and Secretary of the Commission. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings and to file them with the Municipal Clerk where they shall be available for public inspection during office hours. The Commission shall be funded by the Board of Trustees from time to time out of the General Fund. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the Board of Trustees, and no such expenditures nor agreements for expenditures shall be valid in excess of such amounts. A number of Commissioners equal to a majority of the number of regular members appointed to the Commission shall constitute a quorum for the transaction of any business. They shall hold at least one (1) regular meeting in each calendar quarter, except the Board of Trustees may require the Commission to meet more frequently and the Chairperson of the Commission may call for a meeting when necessary to deal with business pending before the Commission. Special meetings may also be held upon the call of any three (3) members of the Commission. The Commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record. The Commission shall make and adopt plans for the physical development of the Municipality, including any areas outside its boundaries which, in the Commission's judgment, bear relation to the planning of the Municipality, and shall carry out the other duties and exercise the powers specified in section 19-929 RS Neb. All actions by the Commission shall be subject to the review and supervision of the Board of Trustees so that they are received by the Board of Trustees within ninety (90) days after the Commission begins consideration of a matter relating to the

comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning duties as the Board of Trustees may, from time to time, designate.

(3) The Chairperson of the Board of Trustees, with the approval of a majority vote of the elected members of the Board of Trustees, may appoint one (1) alternate member to the Commission. The alternate member shall serve without compensation and shall hold no other Municipal office. The term of the alternate member shall be three (3) years, and he or she shall hold office until his or her successor is appointed and approved. The alternate member may be removed from office in the same manner as a regular member. If the alternate member position becomes vacant other than through the expiration of the term, the vacancy shall be filled for the unexpired portion of the term by the Chairperson with the approval of a majority vote of the elected members of the Board of Trustees. The alternate member may attend any meeting and may serve as a voting and participating member of the Commission at any time when less than the full number of regular Commission members is present and capable of voting. (*Ref. 19-924 through 19-929 RS Neb.*) (*Ord. No. 268, 9/2/03*)

Article 3. Penal Provision

§2-301 VIOLATION; PENALTY. (1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred (\$500.00) dollars. A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

(2) (a) Whenever a nuisance exists as defined in this chapter, the Municipality may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (*Ref. 17-207, 17-505, 18-1720, 18-1722 RS Neb.*) (*Amended by Ord. No. 254, 10/2/00*)

Broadwater Code

Chapter 3
DEPARTMENTS

Article 1. Water Department

§3-101 MUNICIPAL WATER DEPARTMENT; OPERATION AND FUNDING. The Municipality owns and operates the Municipal Water Department through the Water Committee. The Governing Body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Water Department may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Water Fund and shall remain in the custody of the Municipal Treasurer. The Water Committee shall have the direct management and control of the Municipal Water Department and shall faithfully carry out the duties of his office. The Water Committee shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department subject to the supervision and review of the Governing Body. The Governing Body shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the Municipal Clerk for public inspection at any reasonable time. (Ref. 17-531, 17-534, 19-1305 RS Neb.)

§3-102 MUNICIPAL WATER DEPARTMENT; DEFINITIONS. The following definitions shall be applied throughout this Article. Where no definition is specified, the normal dictionary usage of the word shall apply.

MAIN. The term "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 Municipality.

SUPPLY PIPE. The term "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 premise where the shut-off, stop box, or curb cock is located.

SERVICE PIPE. The term "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 premise where the water is to be dispersed.

SEPARATE PREMISE. The term "separate premise" is hereby defined to be more than one (1) consumer procuring water from the same service or supply pipe. The second (2nd) premise may be a separate dwelling, apartment, building, or structure used for a separate business.

§3-103 MUNICIPAL WATER DEPARTMENT; CONSUMER'S APPLICATION. Every person or persons desiring a supply of water must make application therefor to the Municipal Clerk. The Clerk may require any applicant to make a service deposit in such amount as has been set by the Governing Body and placed on file at the office of the Municipal Clerk. Water may not be supplied to any house or private service pipe except upon the order of the Water Committee. (Ref. 17-537 RS Neb.)

§3-104 MUNICIPAL WATER DEPARTMENT; SERVICE TO NON-RESIDENTS. The Department shall not supply water service to any person outside the corporate limits without special permission from the Governing Body; Provided, the entire cost of laying mains, service pipe, and supply pipe shall be paid by the consumer. Nothing herein shall be construed to obligate the Municipality to provide water service to non-residents. (Ref.19-2701 RS Neb.)

§3-105 MUNICIPAL WATER DEPARTMENT; WATER CONTRACT. The Municipality through its Water Department, shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The Municipality may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a Municipal commercial main is now or may hereafter be laid and

may also furnish water to persons whose premises are situated outside the corporate limits of the Municipality, as and when, according to law, the Governing Body may see fit to do so. The rules, regulations, and water rates hereinafter named in this Article, shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served. Without further formality, the making of application on the part of any applicant or the use or consumption of water service by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the Municipality, to which said contract both parties are bound. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the Governing Body may hereafter adopt, the Water Committee or the Committee's agent, may cut off or disconnect the water service from the building or premise or place of such violation. No further connection for water service to said building, premise, or place shall again be made save or except by order of said Water Committee or the Committee's agent.

§3-106 MUNICIPAL WATER DEPARTMENT; INSTALLATION PROCEDURE. In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. After service pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of twenty-four (24) hours or more, the Water Committee shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the consumer. All installations or repairs of pipes require two (2)

inspections by the Water Committee. The first (1st) inspection shall be made when connections or repairs are completed and before the pipes are covered. The second (2nd) inspection shall be made after the dirt work is completed and the service is restored. It is the customer's responsibility to notify the Water Committee at the time the work is ready for each 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 Water Committee; Provided that the said rules, regulations, and specifications have been reviewed and approved by the Governing Body. (Ref. 17-537 RS Neb.)

§3-107 MUNICIPAL WATER DEPARTMENT; INSTALLATION EXPENSE. The Municipality shall pay the cost of tapping the main, installing the meter, and providing fixtures and labor up to and including the stop box at the lot line of the customer. No person other than the Water Committee or the Committee's agent shall tap the water main. The customer shall pay a tap fee in such sum as the Governing Body shall require in each case; Provided, that a tap for a three-quarter (3/4) inch pipe shall be deemed to be the minimum or base tap fee. The customer shall at his own expense bring water service from the stop box and upon his own premise and shall employ a licensed plumber who shall install water service to the place of dispersement. Non-residents shall pay such tap fees and installation charges in such sums as the Governing Body, shall in each case fix. The extension of commercial mains into unsupplied territory within the corporate limits, may be made by means of water extension districts. (Ref. 17-542 RS Neb.)

§3-108 MUNICIPAL WATER DEPARTMENT; REPAIRS AND MAINTENANCE. The Municipality shall repair or replace, as the case may be, all supply pipe between the commercial main and the stop box. The customer at his own expense shall replace and keep in repair all service pipe from the stop box to the place of dispersement. When leaks occur in service pipes, the Utilities Superintendent shall shut

off water service until the leak is repaired at the expense of the customer to the satisfaction of the Utilities Superintendent. All water meters shall be kept in repair by the Municipality at the expense of the Municipality. When meters are worn out, they shall be replaced and reset by the Municipality at the expense of the Municipality; Provided, that if the customer permits or allows a water meter to be damaged, injured, or destroyed through his own recklessness, carelessness, or neglect so that the meter must be repaired or replaced, the Utilities Superintendent shall bill and collect from the customer the cost of such meter repair or replacement in the same manner as water rent is collected. Permitting a water meter to be damaged or destroyed by freezing shall always be considered negligence on the part of the customer. All meters shall be tested at the customer's request at the expense of the customer any reasonable number of times; Provided, that if the test shows the water meter to be running two (2%) per cent or more fast, the expense of such test shall be borne by the Municipality. The Municipality reserves the right to test any water service meter at any time, and if said meter is found to be beyond repair the Municipality shall always have the right to place a new meter on the customer's water service fixtures at Municipal expense. Should a consumer's meter fail to register properly, the customer shall be charged for water during the time the meter is out of repair on the basis of the monthly consumption during the same month of the preceding year; Provided, that if no such basis for comparison exists, the customer shall be charged such amount as may be reasonably fixed by the Utilities Superintendent. It shall be unlawful for any person to tamper with any water meter, or by any means or device to divert water from the service pipe so that the same shall not pass through said meter, or while passing through said meter, to cause the same to register inaccurately. (Ref. 17-537 RS Neb.)

§3-109 MUNICIPAL WATER DEPARTMENT; FEES AND COLLECTIONS. The Governing Body has the power and authority to fix the rates to be paid by

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

§3-110 MUNICIPAL WATER DEPARTMENT; MINIMUM RATES. All water consumers shall be liable for the minimum rate provided by ordinance unless and until the consumer shall, by written order, direct the Governing Body to shut off the water at the stop box, in which case he shall not be liable thereafter for water rental until the water is turned on again. (Ref. 17-542 RS Neb.)

§3-111 MUNICIPAL WATER DEPARTMENT; WATER BILLS. Water bills shall be due and payable as provided in Article 3 of this Chapter.

§3-112 MUNICIPAL WATER DEPARTMENT; LIEN. In addition to all other remedies, if a customer shall for any reason remain indebted to the Municipality for water service furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent water rent which is hereby declared to be a lien upon the real estate for which the same was used. The Municipal Clerk shall notify in writing or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are sixty (60) days or more delinquent in the payment of water rent. It shall be the duty of the Municipal Clerk on the first (1st) day of June of each year to report to the Governing Body a list of all unpaid accounts due for water together with a description of the premise upon which the same was used. The report shall be examined, and if approved by the Governing Body,

shall be certified by the Municipal Clerk to the County Clerk to be collected as a special tax in the manner provided by law. (*Ref. 17-538 RS Neb.*)

§3-113 MUNICIPAL WATER DEPARTMENT; SINGLE PREMISE. No consumer shall supply water to other families, or allow them to take water from his premise, nor after water is supplied into a building shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premise for alteration, extension, or attachment without the written permission of the Municipal Clerk. It shall further be unlawful for any person to tamper with any water meter or by means of any contrivance or device to divert the water from the service pipe so that the water will not pass through the meter or while passing through said meter to cause the meter to register inaccurately. (*Ref. 17-537 RS Neb.*)

§3-114 MUNICIPAL WATER DEPARTMENT; RESTRICTED USE. The Governing Body may order a reduction in the use of water or shut off the water on any premise in the event of a water shortage due to fire or other good and sufficient cause. The Municipality shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the Municipality has no control. (*Ref. 17-537 RS Neb.*)

§3-114.01 MUNICIPAL WATER DEPARTMENT; RESTRICTON OF WATER USE. (1) Upon notice from the Chairman, the use of water for all uses except domestic uses shall cease during a fire alarm or during a fire. Water use may resume upon notice by the Chairperson.

(2) In the case of shortage, imminent shortage or possible contamination of the public water supply, the use of water may be restricted according to a restriction plan adopted by resolution of the Board. (*Ord. No. 242, 9/5/00*)

§3-115 MUNICIPAL WATER DEPARTMENT; FIRE HYDRANTS. All hydrants for the purpose of extinguishing fires are hereby declared to be public hydrants, and it shall be unlawful for any person other than members of the Municipal Fire Department under the orders of the Fire Chief, or the Assistant Fire Chief; or members of the Water Department to open or attempt to open any of the hydrants and draw water from the same, or in any manner to interfere with the hydrants.

§3-116 MUNICIPAL WATER DEPARTMENT; POLLUTION. It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Municipal Water Department. (*Ref. 17-536 RS Neb.*)

§3-117 MUNICIPAL WATER DEPARTMENT; MANDATORY CONNECTION TO MUNICIPAL WATER SYSTEM; PRIVATE NONMUNICIPAL WELLS OR WATER SYSTEMS PROHIBITED. All consumers within the corporate limits of the Village of Broadwater, Nebraska, shall be connected to the Municipal water system. Said consumers whether they be residential, business, fertilizer and anhydrous, laundromats, schools, school districts, churches or any other possible consumers shall not be connected to or utilize any nonmunicipal water wells or water systems for any purpose.

Exception: That any consumer connected to a water well or utilizing a water well or water system for whatever purpose prior to the passage and effective date of this ordinance shall not be in violation of this ordinance. (*Amended by Ord. No. 158, 6/7/94*)

§3-118 MUNICIPAL WATER DEPARTMENT; WATER SERVICE CONTRACTS. Contracts for water service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall move from the premise where service is furnished, or if the said premise is destroyed by fire or other casualty, he shall at once inform the Municipal Clerk who shall cause the water

service to be shut off at the said premise. If the consumer should fail to give such notice, he shall be charged for all water used on the said premise until the Municipal Clerk is otherwise advised of such circumstances. (*Ref. 17-537 RS Neb.*)

§3-119 MUNICIPAL WATER DEPARTMENT; INSPECTION.

The Water Committee or the Committee's agents shall have free access, at any reasonable time, to all parts of each premise and building to, or in which, water is delivered for the purpose of examining the pipes, fixtures, and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water. (*Ref. 17-537 RS Neb.*)

§3-120 MUNICIPAL WATER DEPARTMENT; 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 Municipal Water Department. No person may deposit any thing 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 Municipal Clerk.

§3-121 MUNICIPAL WATER DEPARTMENT; LICENSED PLUMBER.

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 license or permit from the Municipality. All plumbing shall be done in the manner required by the Water Committee. The said licensed plumber shall be at all times subject to the inspection and approval of the Water Committee and it shall be further unlawful to cover or conceal willfully any defective or unsatisfactory plumbing work. (*Ref. 17-537 RS Neb.*)

§3-122 MUNICIPAL WATER DEPARTMENT; FEES AND COLLECTIONS.

The Governing Body has the power and authority to fix the rates to be paid by the water consumers for the use of water from the Water Department. All such fees shall be on file for public inspection at the office of the Municipal Clerk. No water service shall be furnished to any customer at a rate that is different from other customers of the same class or type. Persons, firms, or corporations desiring to use water temporarily shall pay such rates as the Water Committee, with the approval of the Governing Body, shall set. Without respect to schedule of rates for other customers, the Governing Body may enter into special contracts with large consumers of water, but never at a rate less than the cost of production; provided, that the contract shall always provide that the said large consumer shall always pay the minimum rate for other customers and the contract shall be made on the basis of water consumed in excess of said minimum. A meter shall always be attached to the water service of such contract consumer and read monthly as in the case of other classes of water consumers. Water service furnished to the other departments of the Municipality and to other governmental subdivisions of the State of Nebraska shall be measured and billed for at such rates as the Governing Body shall set from time to time without respect to the schedule of rates on file at the office of the Municipal Clerk, but never at rates that do not cover the cost of providing water. Whenever water service is supplied to more than one (1) customer through the same supply pipe, each customer shall pay the minimum water service charge each month. In the event that two (2) or more customers are supplied through the same meter, the owner of the premise shall pay for all water consumed thereon plus separate minimums. One (1) bill only shall be computed for each meter. (*Ref. 17-540 RS Neb.*)

§3-122.01 MUNICIPAL WATER DEPARTMENT; RATES.

(1) Effective February 1, 2004, the rate to be charged by the Village for residential water customers shall be as follows:

- (a) For residential unit the charge shall be \$22.00 per month.
- (b) For a residential unit having an additional garden lot, the charge shall be \$12.00 per month, for six (6) months.

(2) Effective February 1, 2004, the rate to be charged by the Village for commercial units shall be as follows:

(a) For commercial units using less than 10,000 gallons per month, the charge shall be \$27.00 per month.

(b) For commercial units using more than 10,000 per month, the charge shall be \$50.00 per month.

(c) For commercial units classified as "waivered commercial", the charge shall be \$22.00 per month. Commercial units must request this waiver from the Village Board.

(3) For the purposes of this section, a RESIDENTIAL UNIT shall mean a single-family dwelling, mobile home, or each unit of a multiple family dwelling. A COMMERCIAL UNIT shall mean an institutional, business and commercial establishment located within the corporate limits of the Village. (Ord. No. 240, 11/1/99) (Amended by Ord. No. 270, 12/1/03)

§3-123 MUNICIPAL WATER DEPARTMENT; SWING VALVE REQUIRED. To prevent the siphoning of water from a structure back into the Municipal Water System when it becomes necessary to disrupt water service and to prevent damage to customer's property caused by such siphoning, all customers applying for new water service and all customers presently serviced may be required in the discretion of the Water Committee to have placed on the line a swing valve (backflow prevention device) of such size and at such location as is approved by the Water Committee. If a present customer is required to place a swing valve on his line, the Municipal Clerk or Water Committee shall give the property owner notice by personally serving written notice or by registered letter or certified mail, directed to the last-known address of such owner or the agent of such owner, directing the placement of such swing valve. If within thirty (30) days of mailing or giving such notice, the property owner fails or neglects to cause such placements to be made, the Water Committee may cause such work to be done and assess the cost upon the property served by such water line. Reasons for requiring swing valves includes, but is not limited to, installation of an underground sprinkler system, installations or replacement of a water heater, and installation or replacement of a water softener. (Ref. 17-537 RS Neb.)

§3-124 MUNICIPAL WATER DEPARTMENT; BUILDING REGULATIONS; PROHIBITION OF LEAD PIPES, SOLDER, AND FLUX. Any pipe, solders or flux used in the installation or repair of any residential or nonresidential facility which is connected to the public water supply system shall be lead free.

For purposes of this section, lead free shall mean:

- (1) Solders and flux - not more than two-tenths percent (.2%) lead, and
- (2) Pipe and pipe fittings - not more than eight percent (8%) lead.

(Ref. 71-5301 RS Neb.) (Ord. No. 144, 6/6/88)

§3-125 MUNICIPAL WATER DEPARTMENT; UNSAFE PHYSICAL CONNECTION TO WATER DISTRIBUTION SYSTEM PROHIBITED; POTENTIAL BACKFLOW HAZARDS; CUSTOMER ASSESSMENT. No customer or other person shall cause, allow, or create any physical connection between the Municipal Water Distribution System and any pipes, pumps, hydrants, tanks, steam condensate returns, engine jackets, heat exchangers, other water supplied or any other connection whereby potentially unsafe or contaminating materials may be discharged or drawn into the Municipal Water Distribution System.

At least one (1) time every five (5) years, customers of the Municipal Water Distribution and Supply System shall be required to assess and report potential backflow and backsiphonage hazards to the Municipality on a form supplied by the Municipality to the customer. The customer shall take any steps necessary for protection of public health and safety as determined by the Water Committee. *(Ord. No. 157, 12/6/93)*

§3-126 MUNICIPAL WATER DEPARTMENT; BACKFLOW PREVENTION DEVICES REQUIRED; CUSTOMER INSTALLATION AND MAINTENANCE; TESTING. A customer of the Municipal Water Department shall install and maintain a properly located backflow prevention device at the

[Text of § 3-126 Continues on Next Page]

customer's expense appropriate to the potential hazards set forth in Title 179, Nebraska Department of Health, and approved by the Water Committee.

The customer shall make application to the Water Committee to install a required backflow prevention device on a form which shall be available in the office of the Municipal Clerk. The application shall contain at a minimum the name and address of the applicant, the type of potential hazard required, protection, and the type of backflow device to be installed including brand and model number.

The Water Committee shall approve the application if such installation will protect the Municipal Water Distribution System from potential backflow and backsiphonage hazards.

The installation of the device shall be subject to all other sections of this code dealing with installation of plumbing.

Such customer shall also certify to the Municipality at least one (1) time annually that the backflow prevention device has been tested by a Nebraska Department of Health Grade VI Certified Water Operator if the device is equipped with a test port. Such certification shall be made on a form available at the office of the Municipal Clerk.

Any decision of the Water Committee may be appealed to the Municipal Governing Body. (*Ord. No. 157, 12/6/93*)

§3-127 MUNICIPAL WATER DEPARTMENT; WELL-HEAD PROTECTION AREA. (1) *Definition.* Wellhead Protection Area means the surface and subsurface area surrounding a water well or well field, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water or well field.

(2) The Village Board designates a Wellhead Protection Area for the purpose of protection of the public water supply system. The boundaries of the Wellhead Protection Area are in reference to the Wellhead Protection Area Boundary Map on file at the office of the Village Clerk. The delineation is based upon a map prepared by the Nebraska Department of Environment Quality presented to the Village on July 13, 2001. (*Ord. No. 257, 9/4/01*)

§3-128 MUNICIPAL WATER DEPARTMENT; PREVENTION OF CONTAMINATION OF WATER SUPPLY.

(1) The intent of this section is to establish control by the Village over the location of future potential sources of contamination within the proximity of the Village's drinking water system, so as to prevent or minimize any hazard to the safety of the Village's drinking water.

(2) Every well, infiltration line or spring serving or intended to provide water for a public water supply system insofar as possible, should be located, constructed or modified in such a manner that neither underground or surface contamination by any biological, chemical or radioactive substance or by the physical property of any substance from any cesspool, privy, septic tank, sub-surface tile system, sewer, drain, pit below ground surface, abandoned well, animal or avian wastes, or any other possible source of pollution can adversely affect such water supply. The minimum recommended horizontal distance in feet separating the well or spring from potential sources of contamination should be as described below.

(3) (a) The minimum recommended horizontal distance in feet separating wells and springs from potential contamination:

Nonpotable Water Well	1,000 feet
Sewage Lagoon	1,000 feet
Absorption or Disposal Field for Waste	500 feet
Cesspool	500 feet
Dump	500 feet
Feedlot or Feedlot Runoff	500 feet
Corral	500 feet
Pit Toilet	500 feet
Sanitary Landfill	500 feet
Chemical or Petroleum Product Storage	500 feet
Septic Tank	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 (Permanently Water Tight)	100 feet
Sanitary Sewer Line	50 feet

(b) The references for these distances is Title 179, Chapter 2, Attachment 1. These distances shall be kept current with the abovementioned Title 179.

(4) When surface runoff or underground movement from potential sources of contamination may adversely affect the quality of water from such supplies, the distance separating these potential sources of contamination and the well or spring should be greater than that listed in the above schedule. (*Ord. No. 260, 4/1/02*)

§3-129 WATER CONSERVATION PLAN. (1) *Purpose.*

The purpose of this section is to adopt a plan for the declaration of a water supply watch, warning or emergency and the implementation of voluntary and mandatory water conservation measures throughout the Village in the event such a watch, warning or emergency is declared. Said Plan shall be named the VILLAGE OF BROADWATER WATER CONSERVATION, DROUGHT AND EMERGENCY CONTINGENCY PLAN.

(2) *Classes of Uses of Water Established.* The following classes of water use are hereby established for users of water on the Village Water System:

(a) CLASS 1: Water used for outdoor watering: either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational areas; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.

(b) CLASS 2: Water used for any commercial or industrial, including agricultural, purpose: except water actually necessary to maintain the health and personal hygiene of bona fide employees while such employees are engaged in the performance of their duties at their place of employment.

(c) CLASS 3: Domestic usage, other than that which would be included in either Classes 1 or 2.

(d) CLASS 4: Water necessary only to sustain human life and the lives of domestic pets and maintain standards of hygiene and sanitation.

(3) *Definitions.*

CONSUMER. The customer on record using water for any purpose from the Village distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery.

DRAW DOWN. The distance between the static water level and the pumping water level.

PLAN. Village of Broadwater Water Conservation, Drought and Emergency Contingencies Plan.

PUMPING WATER LEVEL. The level of water in a well when the pump is pumping.

STATIC WATER LEVEL. The level of water in a well when the pump is not pumping.

TRIGGERS. Significant events which indicate the implementation of the different stages of the Plan.

WASTE OF WATER. Includes, but is not limited to:

- (a) Permitting water to escape down a gutter, ditch, or other surface drain; or
- (b) Failure to repair a controllable leak of water due to defective plumbing; or
- (c) As determined by the Water System Operator.

WATER. Water available to the Village by virtue of its water rights introduced by the Village into its water distribution system including water offered for sale at any coin-operated site.

WATER SYSTEM CAPACITY. For the purposes of the Plan, water system capacity is determined by aggregate production of all wells in gallons per minute times (60) minutes in any hour times (24) hours per day divided by the population the system serves. This value is expressed in gallons per capita per day (gpcd). The Water System Operator shall determine the water system capacity on a weekly (or daily) basis from the months of May through October.

WATER SYSTEM DEMAND. Master water meters on each well must be read daily. Daily consumption is calculated by subtracting the previous day reading from the current day and added together for each well. Water system demand is determined by dividing the daily consumption by the same population number used in determining the water system capacity. This value is expressed in gallons per capita per day (gpcd).

(4) *Water Plan Established.* In order to assure the continued supply of safe drinking water to the citizens of the Village, the Board of Trustees adopts the following plan addressing conservation, drought and emergency contingencies. The Plan is based upon demand on the system and implements a series of stages depending upon the severity of the demand.

(a) STAGE 1: WATER WATCH.

1. *Triggers.* This stage is triggered by any one of the following conditions:

A. When the calculated water system demand equals fifty percent (50%) of the calculated water system capacity.

B. When the draw down of the wells is more than normal for that time of year as determined by the Water Operator.

2. *Goals.* The goals of this Stage are to heighten awareness of the public on water conditions and to maintain the integrity of the water supply system.

3. *Education Actions.*

A. The Village will make occasional news releases to the local media, as well as posting in prominent locations, describing present conditions and indicating the regulatory action.

B. The triggers necessitating the Stage 1: Water Watch will also be made available to the public along with an explanation of terms.

4. *Management Action.*

A. The Village will ascertain that each well is operating at peak efficiency.

B. Leaks detected will be repaired within forty-eight (48) hours.

C. The Village will curtail its use of Class 1 uses.

5. *Regulatory Action.* The public will be asked to voluntarily curtail the use of water as defined in Class 1.

6. *Declaration of a Water Watch.* Whenever the Governing Body of the Village finds that conditions exist as described in the Plan under Stage 1: Water Watch, Triggers, it shall be empowered to declare, by resolution, that a Stage 1: Water Watch exists and implement the steps outlined under this section. The resolution declaring the existence and end of a Stage 1: Water Watch shall be effective upon posting in three (3) prominent places throughout the community.

(b) STAGE 2: WATER WARNING.

1. *Triggers.* This stage is triggered by any one of the following conditions:

A. When the calculated water system demand equals seventy percent (70%) of the calculated water system capacity.

B. When the draw down of the wells increases significantly over and above the level determined in Stage 1.

2. *Goals.* The goal of this Stage is to reduce overall weekly consumption by fifteen percent (15%).

3. *Education Actions.*

A. The Village will make weekly news releases to the local media and by posting, describing present conditions and projecting the outlook for the coming week.

B. The triggers necessitating the Stage 2: Water Warning will also be made available to the public along with an explanation of terms.

C. Water conservation articles will be provided to the local newspaper and posted.

4. *Management Action.*

A. The Village will continue to monitor water supplies on a daily basis.

B. Leaks will be repaired within twenty-four (24) hours.

C. The Village will terminate its usage of water classified in Class 1 and Class 2.

5. *Regulatory Action.*

A. Water classified as Class 1 and Class 2 will be terminated except as follows:

i. An odd/even lawn watering system will be imposed on Village residents. Residents with odd-numbered addresses will water on odd days, even addresses will water on even days.

ii. Outdoor water use, including lawn watering and car washing will be restricted to before 10:00 a.m. and after 9:00 p.m.

iii. Refilling of swimming pools will be allowed on Saturday each week only after sunset.

B. Waste of water is strictly prohibited.

6. *Declaration of a Water Warning.* Whenever the Governing Body of the Village finds that conditions exist as described in the Plan under Stage 2: Water Warning, Triggers, it shall be

empowered to declare, by resolution, that a Stage 2: Water Warning exists and implement the steps outlined under this section. The resolution declaring the existence and end of a Stage 2: Water Warning shall be effective upon posting in three (3) prominent places throughout the community.

(c) STAGE 3: WATER EMERGENCY.

1. *Triggers.* This stage is triggered by any one of the following conditions:

A. When the calculated water system demand equals eighty-five percent (85%) of the calculated water system capacity.

B. When the draw down of the wells increases significantly over and above the level determined in Stage 2.

2. *Goals.* The goals of this Stage are to reduce overall weekly consumption by twenty-three percent (23%) and maintain the integrity of the system.

3. *Education Actions.*

A. The Village will make weekly news releases to the local media and by posting, describing present conditions and projecting the outlook for the coming week.

B. The triggers necessitating the Stage 3: Water Emergency will also be made available to the public along with an explanation of terms.

C. Water conservation articles will be provided to the local newspaper and posted.

D. The Village will conduct public meetings to discuss the emergency, the status of the Village water supply and further actions which may need to be taken.

4. *Management Action.*

A. The Village water supplies will be monitored daily.

B. Leaks will be repaired within twenty-four (24) hours.

C. The Village will seek additional emergency supplies from other users, the state or federal government.

D. The Village Engineer will be consulted for possible alternatives.

E. The Village will notify Morrill County Emergency Management Agency and advise them of the status of the system.

5. *Regulatory Action.*

A. Uses of water in Class 1, 2 and 3 is prohibited.

B. Waste of water will be prohibited.

6. *Declaration of a Water Emergency.* Whenever the Governing Body of the Village finds that conditions exist as described in the Plan under Stage 3: Water Emergency, Triggers, it shall be empowered to declare, by resolution, that a Stage 3: Water Emergency exists and implement the steps outlined under this Plan. The resolution declaring the existence and end of a Stage 3: Water Emergency shall be effective upon posting in three (3) prominent places throughout the community. In the event of a system failure, the Board Chairperson or the Water Operator shall have the authority to declare a Stage 3: Water Emergency.

(5) *Administrative Enforcement Provisions.*

(a) *Warning.* Chairperson of the Board of Trustees, the Water Operator or his agent can issue a written warning to any consumer violating Stage 2: Water Warning and Stage 3: Water Emergency. Such warning shall advise the consumer that a second violation at the same premise within a six (6) month period shall result in the issuance of an Administrative Notice of Violation for which a penalty of doubling of the water rate to such premises shall be imposed for six (6) months. The Village Clerk shall post weekly the names of consumers issued a written warning during the previous week. The names of the consumers given a warning shall be posted in the same locations as the declaration.

(b) *Administrative Notice of Violation.* The Chairperson of the Board of Trustees of the Water Operator or his agent shall issue a written Administrative Notice of Violation to any consumer violating Stage 2: Water Warning and Stage 3: Water Emergency for a second time. Such notice shall advise the consumer that the water rate to the premises shall be doubled for the next six (6) months and that a subsequent violation at the same premise within a six (6) month period shall result in the immediate termination of all water service to the premise. The consumer shall further be notified that they have a right to appeal the issuance of the Administrative Notice of Violation by filing a notice of appeal with the Village Clerk within ten (10) days of the issuance of the Notice. Such appeal shall be heard at the next regular or special meeting of the Board of Trustees. The action shall be final if no appeal is filed within the ten (10) day period.

(c) *Notice of Termination of Service.* The Chairperson of the Board of Trustees or the Water Operator or his agent shall issue a written Notice of Termination of Service to any consumer violating Stage 2: Water Warning and Stage 3: Water Emergency for a third time. Such Notice shall advise the consumer that all water service to the premises in violation shall be discontinued, beginning not less than forty-eight (48) hours after the Notice, unless a further violation is found to have occurred at which time termination shall be immediate for the protection of the Municipal Water System. The consumer may appeal the decision by filing a Notice of Appeal with the Village Clerk or the Chairperson of the Board of Trustees within the forty-eight (48) hour period after Notice of Termination of Service is given. Such appeal shall stay the action of termination until a special meeting of the Board of Trustees shall be called unless the Chairperson of the Board of Trustees determines that a further violation has occurred at which time termination shall be immediate for the protection of the Municipal Water System. If service is terminated, service may be reconnected only upon the filing of a new water application with the Village Clerk and payment of the reconnection fee. Additionally the applicant must file a written statement advising that they are aware

that a water warning or water emergency is in effect and that a subsequent violation of its provisions will result in the termination of water service for a period of not less than thirty (30) days unless such termination of water service would possess a health hazard to the occupants of the premises as determined by the Board of Trustees. The Water Operator or his agent shall cause the termination of the water service to the violating consumer as provided above or directed by the Board of Trustees.

(6) *Emergency Termination.* Nothing in this section shall limit the ability of the Chairperson of the Board of Trustees or Water Operator from terminating the supply of water to any or all customers upon the determination of said officials that emergency termination of water service is required to protect the health and safety of the public. (Ord. No. 267, 10/7/02)

Broadwater Code

Article 2. Sewer Department

§3-201 MUNICIPAL SEWER DEPARTMENT; OPERATION AND FUNDING. (1) The Municipality owns and operates the Municipal Sewer System through the Sewer Committee.

(2) For the purpose of defraying the cost of the maintenance and repairing of any sewer or water utilities in the Municipality, the Governing Body may each year levy a tax not exceeding the maximum limit prescribed by State law on the taxable value of all taxable property in the Municipality. The revenue from the tax shall be known as the Water and Sewer Maintenance Fund and shall be used exclusively for the purpose of maintenance and repairs of the water and sewer system.

(3) The Sewer Committee shall have the direct management and control of the Sewer Department, shall faithfully carry out the duties of the office, and shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Department subject to the supervision and review of the Governing Body. (*Ref. 17-925.01 RS Neb.*) (*Amended by Ord. No. 232, 2/1/99*)

§3-202 MUNICIPAL SEWER DEPARTMENT; DEFINITION OF TERMS. Unless the context specifically indicates otherwise, the meaning of terms used in this Article shall be as follows:

BIOCHEMICAL OXYGEN DEMAND. The term "Biochemical Oxygen Demand" (BOD) shall mean and include the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in parts per million by weight.

BUILDING OR HOUSE DRAIN. The term "Building Drain" and "House Drain" shall mean and include that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, or other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

BUILDING OR HOUSE SEWER. The terms "Building Sewer" and "House Sewer" shall mean and include that part of a house or building drainage system extending from the house or building drain to its connection with the main sewer.

CHLORINE REQUIREMENT. The term "Chlorine Requirement" shall mean the amount of chlorine, in parts per million by weight, which must be added to sewage to produce a specified residual chlorine content, or to meet the requirements of some other objective, in accordance with procedures set forth in "Standard Methods."

COMBINED SEWER. The term "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.

EASEMENT. The term "Easement" shall mean an acquired legal right for the specific use of land owned by others.

FLOATABLE OIL. The term "Floatable Oil" shall mean oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

GARBAGE. The term "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

[Text of § 3-202 Begins on Next Page]

INDUSTRIAL WASTES. The term "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

LOCAL VENTILATING PIPE. The term "Local Ventilating Pipe" shall mean and include any pipe through which foul air is removed from a room or fixture.

MAY. The term "May" is permissive; the term "Shall" is mandatory.

MUNICIPALITY. The term "Municipality" shall mean the Village of Broadwater, Nebraska.

NATURAL OUTLET. The term "Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground-water.

NORMAL SEWAGE. The term "Normal Sewage" shall mean sewage not exceeding maximum tolerance of contamination of 300 milligrams per liter BOD or 350 milligrams per liter of Suspended Solids.

PARTS PER MILLION. The term "Parts Per Million" shall mean a weight-to-weight ratio; the parts-per-million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water.

PERSON. The term "Person" shall mean any individual, firm, company, association, society, corporation, or group.

pH. The term "pH" shall mean and include the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PLUMBING FIXTURES. The term "Plumbing Fixtures" shall mean and include receptacles intended to receive and discharge water liquid or water-carried wastes into the sewer system with which they are connected.

PROPERLY SHREDDED. The term "Properly Shredded" shall mean and include shredding to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle larger than one half ($\frac{1}{2}$) inch in diameter.

PROPERLY SHREDDED GARBAGE. The term "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one half ($\frac{1}{2}$) inch (1.27 centimeters) in any dimension.

PUBLIC SEWER. The term "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

REPLACEMENT. The term "replacement" shall mean expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

SANITARY SEWER. The term "Sanitary Sewer" shall mean and include a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

SERVICE CHARGE. The term "Service Charge" shall mean the basic assessment levied on all users of the public sewer system whose waste does not exceed in strength the concentration values established as representative of normal sewage.

SEWAGE. The term "Sewage" shall mean and include 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.

SEWAGE TREATMENT PLANT. The term "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS. The term "Sewage Works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

SEWER. The term "Sewer" shall mean a pipe or conduit for carrying sewage.

SEWER SYSTEM. The term "Sewer System" shall mean and include all facilities for collecting, pumping, treating, and disposing of sewage.

SEWERAGE. The term "Sewerage" shall mean the system of sewers and appurtenances for the collection, transportation and pumping of sewage and industrial wastes.

SHALL. The term "Shall" is mandatory; the term "May" is permissive.

SLUG. The term "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

SOIL PIPE. The term "Soil Pipe" shall mean and include any pipe which conveys the discharge of water closets with or without the discharge from other fixtures to the house or building drain.

STANDARD METHODS. The term "Standard Methods" shall mean the examination and analytical procedures set forth in the most recent editions of "Standard Methods for the Examination of Water, Sewage, and Industrial Waste," published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

STORM SEWER. The term "Storm Sewer" shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SURCHARGE. The term "Surcharge" shall mean the assessment in addition to the service charge which is levied on those persons whose wastes are greater in strength than the concentration values established as representative of normal sewage.

SUSPENDED SOLIDS. The term "Suspended Solids" shall mean and include solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and are removable by filtering.

TPAP. The term "Trap" shall mean and include a fitting or device so constructed as to prevent the passage of air or gas through a pipe without materially affecting the flow of sewage or waste through it.

TRAP SEAL. The term "Trap Seal" shall mean and include the vertical distance between the crown weir and the dip of the trap.

UNPOLLUTED WATERS. The term "Unpolluted Waters" is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

VENT PIPE. The term "Vent Pipe" shall mean and include any pipe provided to ventilate a house or building drainage system and to prevent trap siphonage and back pressure.

WASTE PIPE. The term "Waste Pipe" shall mean and include any pipe which receives the discharge of any fixture, except water closets, and conveys the same to the house drain, soil pipe, or waste stack.

WASTEWATER. The term "Wastewater" shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

WASTEWATER FACILITIES. The term "Wastewater Facilities" shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

WASTEWATER TREATMENT WORKS. The term "Wastewater Treatment Works" shall mean an arrangement of devices and structure for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "Waste Treatment Plant" or "Wastewater Treatment Plant" or "Water Pollution Control Plant."

WATERCOURSE. The term "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

§3-203 MUNICIPAL SEWER DEPARTMENT; APPLICATION FOR PERMIT. Any person wishing to connect with the Sewer System shall make an application therefor to the Municipal Clerk. The Sewer Committee may require any applicant to make a service deposit in such amount as the Committee deems necessary subject to the review of the Governing Body. Sewer service may not be supplied to any house or building except upon the written order of the Municipal Clerk. The Department shall not supply sewer service to any person outside the corporate limits without special permission from the Governing Body; Provided, that the entire cost of pipe and other installation charges shall be paid by such consumers. Nothing herein shall be construed to obligate the Municipality to provide sewer service to non-residents. (Ref. 18-503 RS Neb.)

§3-204 MUNICIPAL SEWER DEPARTMENT; SEWER CONTRACT. The Municipality through the Municipal Sewer Department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The Municipality may also furnish sewer service to persons whose premises are situated outside the corporate limits of the Municipality, as and when, according to law, the Governing Body may see fit to do so. The rules, regulations, and sewer rental rates hereinafter named in this Article, shall be considered a part of every application hereafter made for sewer service and shall be considered a part of the contract between every customer now or hereafter served. Without further formality, the making of the application on the part of any applicant or the use of sewer service by present customers thereof shall constitute a contract between the customer and the Municipality to which said contract both parties are bound. If the customer shall violate any of the provisions of said contract or any reasonable rules and regulations that the Governing Body may hereafter adopt, the Sewer Committee, or the Committee's agent, may cut off or disconnect the sewer service from the building or premise of such violation. No further connection for sewer service to said building or premise shall again be made save or except by order of the Committee. (Ref. 17-901, 17-902, 18-503 RS Neb.)

§3-205 MUNICIPAL SEWER DEPARTMENT; SERVICE CONTRACTS. Contracts for sewer service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any customer shall move from the premise where service is furnished, or if the said premise is destroyed by fire or other casualty, he shall at once inform the Municipal Clerk who shall cause the sewer service to be shut off from the said premise. If the customer should fail to give notice, he shall be charged for that period of time until the official in charge of sewers is otherwise advised of such circumstances. (Ref. 17-901, 17-902, 18-503 RS Neb.)

§3-206 MUNICIPAL SEWER DEPARTMENT; RATE SETTING. Customers of the Municipal Sewer Department shall be charged a rate based on water usage for the use of sewer service. Rates shall be set by the Governing Body and shall be on file at the office of the Municipal Clerk available for public inspection at any reasonable time. (Ref. 18-509 RS Neb.)

§3-207 MUNICIPAL SEWER DEPARTMENT; SURCHARGES. In addition to other elements of the total user charge system in Sections 3-238 and 3-243, the ordinance on file with the Municipal Clerk shall provide for the following surcharges:

1. A high strength waste surcharge established for pollutant levels (BOD, SS, etc.) which exceed the levels contained in the domestic strength wastewater of the service area. The surcharge shall be expressed as a formula with a per unit charge established for each applicable pollutant. (See Appendix B of 40 CFR 35.900)
2. The authority and intent shall be established to require each user discharging any toxic pollutants to pay the increased costs of managing the effluent or the sludge of the treatment works resulting from such discharge.

§3-208 MUNICIPAL SEWER DEPARTMENT; FEES AND COLLECTIONS. Sewer bills shall be due and payable as provided in Article 3 of this Chapter.

§3-209 MUNICIPAL SEWER DEPARTMENT; USER CHARGE REVIEW. The Governing Body shall review, at least annually, the user charge system and revise the charges, if necessary, to accomplish the following:

1. Maintain the proportional distribution of operation, maintenance and replacement (OM&R) costs among users and user classes;
2. Generate adequate revenues to pay the costs of OM&R;
3. Apply excess revenues collected from a class of

users to the costs of OM&R attributable to that class for the next year and adjust the rates accordingly.

§3-210 MUNICIPAL SEWER DEPARTMENT; USER NOTIFICATION. Each user will be notified, at least annually, with a regular bill, of the rate and that portion of the user charges ad valorem taxes which are attributable to wastewater treatment.

§3-211 MUNICIPAL SEWER DEPARTMENT; SEWER MAINTENANCE FUND. The operation, maintenance and replacement (OM&R) portion of the total sewer user charges shall be deposited in a non-lapsing Sewer Maintenance Fund, or set of funds, and the revenues so deposited will be used only for the purposes of defraying the OM&R costs of the treatment works. Funds transferred from other revenue sources to meet temporary shortages in the OM&R accounts shall be refunded following an appropriate adjustment in the user charges for OM&R the Sewer Maintenance Fund will have a minimum of two primary accounts:

1. An O&M account with provision for carry-over of the fiscal year end balance to meet the over-all O&M costs in the subsequent fiscal year;
2. A non-lapsing sinking fund for replacement costs which accrues funds through deposits made at least annually from OM&R use charge revenues. The deposits shall provide adequate revenues to meet the "replacement" needs of the treatment works over its service life and shall be used for no other purpose. For purposes of maintaining said fund on a perpetual basis, the Municipality shall budget a sum of money not less than twenty percent (20%) of its annual projected operation and maintenance budget for the sewer treatment works. Fiscal year-end balances in the non-lapsing sinking fund will be carried over to the same fund in the subsequent year.

§3-212 MUNICIPAL SEWER DEPARTMENT; CLASSIFICATION. The Governing Body may classify for the purpose of rental fees the customers of the Mu-

municipal Sewer Department; Provided, that such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers. The classification must be approved by the Environmental Protection Agency, relative to the user charge grant condition. (Ref. 17-925.02 RS Neb.)

§3-213 SANITARY SUPPLY SYSTEM; DESTRUCTION OF PROPERTY. No person or persons shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the wastewater facilities. Any person or persons violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

§3-214 PUBLIC SEWERS REQUIRED; UNLAWFUL DEPOSIT OF WASTES. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Municipality or within one (1) mile of the corporate limits thereof, or in any area under the jurisdiction of said Municipality, any human or animal excrement, garbage, or other objectionable waste.

§3-215 PUBLIC SEWERS REQUIRED; UNLAWFUL DISCHARGE OF UNTREATED SEWAGE. It shall be unlawful to discharge to any natural outlet within the Municipality, or within one (1) mile of the corporate limits thereof, or in any area under the jurisdiction of said Municipality, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Article.

§3-216 PUBLIC SEWERS REQUIRED; CESSPOOLS, PRIVIES AND SEPTIC TANKS PROHIBITED. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

§3-217 PUBLIC SEWERS REQUIRED; MANDATORY HOOK-UP. The owner of all houses, buildings, or properties used for human employment, recreation, or other purposes, situated within the Municipality 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 or combined sewer of the Municipality, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Article within ninety (90) days after date of official notice to do so; Provided, that said public sewer is within one hundred (100') feet (30.5 meters) of the property line.

§3-218 PRIVATE SEWAGE DISPOSAL; WHEN APPLICABLE. Where a public sanitary or combined sewer is not available under the provisions of Section 3-217, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Article.

At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 3-217, a direct connection shall be made to the public sewer within sixty (60) days in compliance with this Article, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

§3-219 PRIVATE SEWAGE DISPOSAL SYSTEM; PERMIT REQUIRED, FEE. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Municipal Clerk. The application for such permit shall be made on a form furnished by the Municipality, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Sewer Committee. A permit and inspection fee of ten dollars (\$10.00) shall be paid to the Municipality at the time the application is filed.

§3-220 PRIVATE SEWAGE DISPOSAL SYSTEM; PERMIT, WHEN EFFECTIVE; INSPECTIONS. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Sewer Committee. They shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Municipal Clerk when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within twenty-four (24) hours of the receipt of notice by the Municipal Clerk.

§3-221 PRIVATE SEWAGE DISPOSAL SYSTEM; SPECIFICATIONS. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the State of Nebraska. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities when the area of the lot is less than ten thousand (10,000) square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

§3-222 PRIVATE SEWAGE DISPOSAL SYSTEM; MAINTENANCE. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Municipality.

§3-223 PRIVATE SEWAGE DISPOSAL SYSTEM; ADDITIONAL REQUIREMENTS. No statement contained in Sections 3-218 thru 3-222 shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.

§3-224 BUILDING SEWER INSTALLATION; PERMIT REQUIRED. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Municipal Clerk.

§3-225 BUILDING SEWER INSTALLATION; CLASSIFICATION; PERMIT APPLICATION. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the Municipality. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Sewer Committee.

§3-226 MUNICIPAL SEWER DEPARTMENT; INSTALLATION EXPENSE. The customer, upon approval of his application for sewer service, shall pay to the Municipal Clerk a tap fee which shall compensate the Municipality for the expense of processing his application and tapping the sewer main. The Sewer Committee, in his 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 as well as the services of a licensed plumber and shall pay all other costs of installation.

§3-227 MUNICIPAL SEWER SYSTEM; REPAIRS AND REPLACEMENT. The Municipal Sewer Department may require the owner of any property which is within the Municipality and 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.

The Municipal 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 thirty (30) days of mailing such notice the

property owner fails or neglects to cause such repairs or replacements to be made, the Sewer Committee may cause such work to be done and assess the cost upon the property served by such connection. (Ref. 18-1748 RS Neb.)

§3-228 BUILDING SEWER INSTALLATION; SINGLE PREMISE. A separate and independent building sewer shall be provided for every building; except where one (1) 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 (1) building sewer, but the Municipality does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

§3-229 BUILDING SEWER INSTALLATION; USE OF EXISTING SEWERS. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Sewer Committee, to meet all requirements of this Article.

§3-230 BUILDING SEWER INSTALLATION; CONSTRUCTION CODES. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Municipality. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by

such building drain shall be lifted by an approved means and discharged to the building sewer.

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

§3-231 BUILDING SEWER INSTALLATION; UNLAWFUL CONNECTION. No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the Superintendent for purposes of disposal of polluted surface drainage; Provided, that if responsibility can be determined, the party responsible for disposal of polluted surface drainage into the public sanitary sewer shall pay a user charge equivalent to the cost of treating the polluted drainage.

§3-232 BUILDING SEWER INSTALLATION; INSPECTIONS. The applicant for the building sewer permit shall notify the Municipal Clerk when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Sewer Committee or the Committee's representative.

§3-233 BUILDING SEWER INSTALLATION; EXCAVATIONS. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Municipality.

§3-234 MUNICIPAL SEWER DEPARTMENT; INSTALLATION PROCEDURE. In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. After the house sewer is laid, the public ways and property shall be restored to good condition. If the excavation in the public ways and property is left open or unfinished for a period of twenty-four (24) hours or more, the Sewer Committee shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the owner, occupant, or lessee of the property. All installations or repairs of pipes require two (2) inspections by the Sewer Committee. The first (1st) inspection shall be made when connections or repairs are complete and before the pipe is covered. The second (2nd) inspection shall be made after the dirt work is completed and the service restored. It is the customer's responsibility to notify the Sewer Committee at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for such installation prescribed by the Sewer Committee; Provided, that the said rules, regulations, and specifications have been reviewed and approved by the Governing Body.

§3-235 PROHIBITED DISCHARGES; STORMWATER, SURFACE WATER, GROUNDWATER, COOLING WATER AND PROCESS WATER. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial waters to any sanitary sewer.

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are

specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Sewer Committee. Industrial cooling water or unpolluted process water may be discharged, on approval of the Sewer Committee, to a storm sewer, combined sewer, or natural outlet. The contributor of any identifiable discharge of polluted water to the sanitary sewer system shall be held responsible for reimbursing the Municipality for such costs. The costs shall be determined by the Sewer Committee with the approval of the Governing Body.

§3-236 HAZARDOUS AND PROHIBITED DISCHARGES; FLAMMABLE, TOXIC, CORROSIVE AND OBSTRUCTIVE SUBSTANCES; PRELIMINARY TREATMENT. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.
3. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Any waters or wastes having:
- a) a five (5) day BOD greater than 300 parts per million by weight or,
 - b) containing more than 350 parts per million by weight of suspended solids, or
 - c) having an average daily flow greater than two (2%) per cent of the average sewage flow of the Municipality, or
 - d) a chlorine requirement greater than demanded by normal sewage as evaluated by the Municipality's consulting engineer shall be subject to the review of the Sewer Committee.

Where necessary in the opinion of the Sewer Committee, the owner shall provide, at his expense, such preliminary treatment as may be necessary to:

- a) reduce the biochemical oxygen demand to 300 parts per million by weight, or
- b) reduce the suspended solids to 350 parts per million by weight, or
- c) control the quantities and rates of discharge of such waters or wastes, or
- d) reduce the chlorine requirement to conform with normal sewage.

Plans, specifications, and other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Sewer Committee and no construction of such facilities shall be commenced until said approvals are obtained in writing.

§3-237 HAZARDOUS AND PROHIBITED DISCHARGES; SPECIFIC PROHIBITIONS AS DETERMINED BY SEWER COMMITTEE. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Sewer Committee that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or

constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Committee will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, and other pertinent factors. The substances prohibited are:

1. Any liquid or vapor having a temperature higher than one hundred fifty (150⁰) degrees Fahrenheit (65⁰ degrees C).
2. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32⁰) degrees and one hundred fifty (150⁰) degrees F (0 and 65⁰ C).
3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Committee.
4. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
5. Any water or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Committee for such materials.
6. Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the Committee as necessary, after treatment of the composite sewage, to meet the requirements of State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Committee in compliance with applicable State or Federal regulations.
8. Any waters of wastes having a pH in excess of [9.5].
9. Materials which exert or cause:
 - a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids, (such as but not limited to, sodium chloride or sodium sulfate).
 - b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - d. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
10. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

§3-238 DISCHARGE OF HAZARDOUS AND PROHIBITED SUBSTANCES; REJECTION, PRETREATMENT, CONTROL OF DISCHARGE RATE OR USE FEE SURCHARGE. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 3-237, and which in the judgment of the Sewer Committee, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the Sewer Committee may:

1. Reject the wastes,
2. Require pretreatment to an acceptable condition for discharge to the public sewers,
3. Require control over the quantities and rates of discharge, and/or
4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 3-243.

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

§3-239 GREASE, OIL AND SAND INTERCEPTORS; WHEN REQUIRED. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Sewer Committee, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Sewer Committee and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal which are subject to review by the Sewer Committee. Any removal and hauling of the collected materials not performed by owner(s)' personnel must be performed by currently licensed waste disposal firms.

§3-240 PRELIMINARY TREATMENT OR FLOW-EQUALIZING FACILITIES; MAINTENANCE BY OWNER. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

§3-241 CONTROL MANHOLES/SAMPLING STATIONS; WHEN REQUIRED; INSTALLATION AND MAINTENANCE. When required by the Sewer Committee, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Sewer Committee. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

§3-242 CONTROL MANHOLES/SAMPLING STATIONS; METHOD. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Article, shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

§3-243 HAZARDOUS AND PROHIBITED SUBSTANCES; SPECIAL EXCEPTIONS PERMITTED; USE FEE SURCHARGE. No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the Municipality and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Municipality for treatment, subject to payment therefor, by the industrial concern.

§3-244 COMPLIANCE WITH ARTICLE; INSPECTIONS GENERALLY. The Sewer Committee or duly authorized employees of the Municipality bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing system in accordance with the provisions of this Article. The Sewer Committee or its representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

§3-245 COMPLIANCE WITH ARTICLE; INSPECTIONS; INJURY LIABILITY. While performing the necessary work on private properties referred to in Section 3-244 above, the Sewer Committee or duly authorized employees of the Municipality shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the Municipal Employees and the Municipality shall indemnify the company against loss or damage to its property by Municipal employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 3-241.

§3-246 COMPLIANCE WITH ARTICLE; INSPECTIONS; EASEMENTS. The Sewer Committee and other duly authorized employees of the Municipality bearing proper credentials and identification shall be permitted to enter all private properties through which the Municipality holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

§3-247 VIOLATION; NOTICE AND LIABILITY.

Any person found to be violating any provision of this Article except Section 3-213 shall be served by the Municipality with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Any person violating any of the provisions of this Article shall become liable to the Municipality for any expense, loss, or damage occasioned the Municipality by reason of such violation.

§3-248 MUNICIPAL SEWER DEPARTMENT; MUNICIPAL POWERS. The Municipality has the legal authority to enforce its system of user charges, industrial cost recovery charge, and sewer use regulations on all existing or future users of the system whether located inside or outside the Municipal limits.

§3-249 SEVERABILITY CLAUSE. The invalidity of any Section, clause, sentence, or provision of this Article shall not affect the validity of any other part of this Article which can be given effect without such invalid part or parts.

§3-250 PENAL PROVISION; VIOLATION. Any person who shall continue any violation beyond the time limit provided in

Section 3-246, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding five hundred (\$500.00) dollars for each violation. Each twenty-four (24) hour period in which any such violation shall continue shall be deemed a separate offense. (*Amended by Ord. No. 254, 10/2/00*)

Article 3. Utilities Generally

§3-301 UTILITIES GENERALLY; BILLING. Utility bills shall be a joint bill for all utilities and shall be due and payable monthly at the office of the Village Clerk. It shall be the duty of the Village Clerk to compute or cause to be computed a joint utility bill by the end of each month according to the appropriate provisions of this Code. It shall be the duty of all utilities customers to cause to be mailed or to present themselves monthly at the office of the Village Clerk and pay their bill for all utility charges. Bills shall be deemed delinquent if not paid by the fifteenth (15th) day of each month. (*Ref. 17-537, 18-503, 19-1404 RS Neb.*)

§3-302 UTILITIES GENERALLY; DEPOSIT. Any customer desiring service shall be required to make a joint service deposit for all Municipal Utilities. The amount of said deposit shall be on file in the office of the Municipal Clerk.

§3-303 UTILITIES GENERALLY; LIEN. In addition to all other remedies, if a customer shall for any reason remain indebted to the Municipality for utilities service 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 furnished. The Village Clerk shall notify in writing or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are sixty (60) days or more delinquent in the payment of the utilities rent. It shall be the duty of the Village Clerk to report to the Governing Body a list of all unpaid accounts due for utilities service together with a description of the premises served. The report shall be examined, and if approved by the Governing Body, shall be certified by the Municipal Clerk to the County Clerk to be collected as a special tax in the manner provided by law. (*Ref. 17-538, 17-925.01, 18-503 RS Neb.*)

§3-304 UTILITIES GENERALLY; DISCONTINUANCE OF SERVICE, NOTICE PROCEDURE.

(1) The Municipality shall not discontinue utility service to any domestic subscriber for nonpayment of any past-due account unless the Municipality first gives written notice by mail to any subscriber whose service is proposed to be terminated at least seven (7) days prior to termination, weekends and holidays excluded. As to any subscriber who has previously been identified as a welfare recipient to the Municipality by the Department of Health and Human Services, such notice shall be by certified mail and notice of such proposed termination shall be given to the Department of Health and Human Services.

(2) Prior to the discontinuance of service to any domestic subscriber by the Municipality, the domestic subscriber, upon request, shall be provided a conference with the Governing Body. The Governing Body has established procedures to resolve utility bills when a conference is requested by a domestic subscriber. These procedures, three (3) copies of which are on file in the office of the Municipal Clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part of this section as though set out in full. A copy of such procedures shall be furnished upon the request of any domestic subscriber. The Governing Body shall notify the domestic subscriber of the time, place, and date scheduled for such conference.

(3) This section shall not apply to any disconnections or interruptions of services made necessary by the Municipality for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public. (*Ref. 70-1603, 70-1604 RS Neb.*) (*Amended by Ord. No. 209, 10/6/97*)

§3-305 UTILITIES GENERALLY; DIVERSION OF SERVICES; CIVIL ACTION.

(A) For purposes of this section, the definitions found in section 25-21,275 RS Neb. shall apply.

(B) (1) The Municipality may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts:

- (a) Bypassing,
- (b) Tampering, or
- (c) Unauthorized metering when such act results in damages to a municipal utility.

The Municipality 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.

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

- (a) The amount of actual damage or loss if the amount of the damage or loss is susceptible of reasonable calculation; or
- (b) Liquidated damages of seven hundred fifty dollars (\$750.00) if the amount of actual damage or loss is not susceptible of reasonable calculation.

(3) In addition to damage or loss under subdivision (2)(a) or (b), the Municipality 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 attorneys' fees in cases within the scope of section 25-1801 RS Neb. (*Ref. 25-21,276 RS Neb.*)

(C) (1) 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:

- (a) 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
- (b) 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.

(2) 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. *(Ref. 25-21,277 RS Neb.)*

(D) The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws. 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. *(Ref. 25-21,278 RS Neb.) (Amended by Ord. No. 281, 12/1/03)*

§3-306 UTILITIES GENERALLY; DIVERSION OF SERVICES, UNAUTHORIZED RECONNECTION, PROHIBITED; EVIDENCE.

(1) Any person who connects any pipe or conduit supplying water, without the knowledge and consent of the Municipality, in such manner that any portion thereof may be supplied to any instrument by or at which water may be consumed, and any person who knowingly uses or knowingly permits the use of water obtained in the above mentioned unauthorized ways, shall be deemed guilty of an offense.

(2) When water service has been disconnected pursuant to sections 70-1601 to 70-1615 RS Neb., or section 3-304 of this Code, any person who reconnects such service without the knowledge and consent of the Municipality shall be deemed guilty of an offense.

(3) Proof of the existence of any pipe or conduit connection or reconnection, as provided in this section, shall be taken as prima facie evidence of the guilt of the person in possession of the premises where such connection, reconnection, or alteration is proved to exist. *(Ref. 86-329 through 86-331 RS Neb.) (Ord. No. 188, 3/4/96)*

Article 4. Fire Department

§3-401 MUNICIPAL FIRE DEPARTMENT; OPERATION AND FUNDING. The Municipality operates the Municipal Fire Department through the Municipal Fire Chief and Firemen. The Governing Body, for the purpose of defraying the cost of the management, maintenance, and improving the Fire Department may each year levy a tax not exceeding the maximum limits prescribed by State law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The revenue from the said tax shall be known as the Fire Department Fund. The Fund shall be at all times in the possession of the Municipal Treasurer. (Ref. 17-718, 17-953 RS Neb.)

§3-402 MUNICIPAL FIRE DEPARTMENT; FIRE CHIEF. The Fire Chief shall manage the Fire Department and it shall be his duty to inform the Governing Body when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the Governing Body, the Fire Chief shall cause the repair, improvement, or maintenance of the said equipment and shall personally supervise and approve of the same. It shall be the duty of the Fire Chief to come before the Governing Body at the regular meeting in January of each year to give an annual report to the Governing Body of the general condition and the proposed additions or improvements recommended by him.

§3-403 MUNICIPAL FIRE DEPARTMENT; MEMBERSHIP. The Fire Chief shall appoint no more than twenty-five (25) members for each Fire Department Company subject to the review and approval of the Governing Body. All vacancies shall be filled in this manner. Said members shall be considered to be employees of the Municipality for the purpose of providing them with workmen's compensation and other benefits. Each member shall be entitled to a term life insurance policy in the amount of at least five thousand (\$5,000.00) dollars for death from any cause to age sixty-five (65) and such policy shall,

at the option of the individual fireman, be convertible to a permanent form of life insurance at age sixty-five (65); Provided, that the firemen covered are actively and faithfully performing the duties of their position. The Fire Department shall consist of so many members as may be decided by the Governing Body. The members may organize themselves in any way they may decide, subject to the review of the Governing Body. They may hold meetings and engage in social activities with the approval of the Governing Body. The secretary shall upon request keep a record of all meetings and shall make a report to the Governing Body of all meetings and activities of the Fire Department. The Governing Body may, for services rendered, compensate or reward any member or members of the Fire Department in an amount set by resolution. All members of the Fire Department shall be subject to such rules and regulations, and shall perform such duties, as may be prescribed or required of them by the Fire Chief or the Governing Body. The members of the Fire Department shall, during the time of a fire or great public danger, have and exercise the powers and duties of policemen and shall have full power and authority to arrest all persons guilty of any violation of the Municipal Code, or the laws of the State of Nebraska.

Provided, however, Volunteer Firefighters and rescue squad members testifying as a witness in connection with his or her officially assigned duties in that capacity alone shall not be deemed employees of the State of Nebraska or of the Municipality. (Ref. 33-139.01, 35-101 thru 35-103, 35-108 RS Neb.)

§3-404 MUNICIPAL FIRE DEPARTMENT; RECORDS. The Fire Chief shall keep or cause to be kept a record of all meetings of the Fire Department, the attendance record of all members, a record of all fires, and shall make a full report of such records to the Municipal Clerk during the last week in April each year. The record of any fire shall include the cause, origin, circumstances, property involved, and whether criminal conduct may

have been involved. In the event of sizable property damage, he shall include the information of whether such losses were covered by insurance, and if so, in what amount. All records shall be available to the public at any reasonable time.

§3-405 MUNICIPAL FIRE DEPARTMENT; FIRES. It shall be the duty of the Fire Department to use all proper means for the extinguishment of fires; to protect property within the Municipality; and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention.

§3-406 MUNICIPAL FIRE DEPARTMENT; DISTANT FIRES. Upon the permission of the Village Chairman or Fire Chief, or pursuant to any agreement with a Rural Fire District for mutual aid and protection, such fire equipment of the Municipality as may be designated by the Governing Body as rural equipment may be used beyond the corporate limits to extinguish a reported fire.

§3-407 MUNICIPAL FIRE DEPARTMENT; FIGHTING DISTANT FIRES. The firefighters of the Municipality shall be considered as acting in the performance and within the scope of their duties in fighting fire or saving property or life outside the corporate limits of the Municipality when directed to do so by the Chairman or Chief of the Fire Department or some person authorized to act for such Chief and in so doing, may take such fire equipment of the Municipality as may be designated by the Governing Body.

§3-408 MUNICIPAL FIRE DEPARTMENT; HOSE TESTED. All fire hose shall be pressure tested at least two (2) times each year.

§3-409 MUNICIPAL FIRE DEPARTMENT; DRILLS. The Municipal Fire Department shall hold departmental fire drills at least six (6) times per year at such times as the members of the Fire Department shall decide.

§3-410 MUNICIPAL FIRE DEPARTMENT; INSPECTIONS. It shall be the duty of the Fire Chief, when directed to do so by the Governing Body, to inspect or cause to be inspected by Fire Department officers, members, or some other official as often as may be necessary, all buildings, premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to create a fire hazard. The inspection shall be of the storage, sale and use of flammable liquids, combustibles, and explosives; electric wiring and heating; and the means and adequacy of exits, in case of fire in schools, churches, hotels, halls, theatres, factories, hospitals, and all other buildings in which numbers of persons congregate from time to time for any purpose whether publicly or privately owned; the design, construction, location, installation, and operation of equipment for storing, handling, and utilizing of liquefied petroleum gases, specifying the odorization of said gases and the degree thereof; and chemicals, prozylin plastics, nitrocellulose films, or any other hazardous material that may now or hereafter exist. (Ref. 81-512 RS Neb.)

§3-411 MUNICIPAL FIRE DEPARTMENT; NOTICE OF VIOLATION. Upon the finding that the Municipal Code has been violated, the Fire Chief shall notify, or cause to be notified, the owner, occupant, or manager of the premise where a violation has occurred. Notice may be made personally or by delivering a copy to the premise and affixing it to the door of the main entrance of the said premise. Whenever it may be necessary to serve such an order upon the owner, such order may be served personally, or by mailing a copy to the owner's last known post office address if the said owner is absent from the jurisdiction. Any such order shall be immediately complied with by the owner, occupant, or manager of the premise or building. The owner, occupant, or manager may, within five (5) days after such order by the Chief of the Fire Department or his agent, appeal the order with the

Governing Body requesting a review and it shall be the duty of the Governing Body to hear the same within not less than five (5) days nor more than ten (10) days from the time when the request was filed in writing with the Municipal Clerk. The Governing Body shall then affirm, modify, or recind the said order as safety and justice may require and the decision shall then be final, subject only to any remedy which the aggrieved person may have at law or equity. The said order shall be modified or recinded only where it is evident that reasonable safety exists and that conditions necessitate a variance due to the probable hardship in complying literally with the order of the Fire Chief. A copy of any decision so made shall be sent to both the Fire Chief and the owner, occupant, or manager making the appeal.

§3-412 MUNICIPAL FIRE DEPARTMENT; POWER OF ARREST. The Municipal Fire Chief or the assistant Fire Chief shall have the power during the time of a fire and for a period of thirty-six (36) hours after its extinguishment, to arrest any suspected arsonist, or other person hindering or resisting the fire fighting effort, or any person who conducts himself in a noisy or disorderly manner. The said officials shall be severally vested with the usual powers and authority of Municipal Policemen to command all persons to assist them in the performance of their duties.

§3-413 MUNICIPAL FIRE DEPARTMENT; FIRE INVESTIGATION. It shall be the duty of the Fire Department to investigate or cause to be investigated, the cause, origin, and circumstances of every fire occurring in the Municipality in which property has been destroyed or damaged in excess of fifty (\$50.00) dollars. All fires of unknown origin shall be reported, and such officers shall especially make an investigation and report as to whether such fire was the result of carelessness, accident, or design. Such investigation shall be begun within two (2) days of the occurrence of such fire and the State Fire Marshal shall have the

right to supervise and direct the investigation whenever he deems it expedient or necessary. The officer making the investigation of fires occurring within the Municipality shall immediately notify the State Fire Marshal and shall, within one (1) week of the occurrence of the fire, furnish him with a written statement of all the facts relating to the cause and origin of the fire, and such further information as he may call for. (Ref. 81-506 RS Neb.)

Article 5. Police Department

§3-501 POLICE DEPARTMENT; DUTIES. The Police Department shall consist of the County Sheriff's Department and such further number of regular policemen as may be duly ordered by resolution of the Governing Body. The County Sheriff shall, subject to the direction of the Governing Body, have control and management of all matters relating to the Police Department, its officers and members, and shall have the custody and control of all property and books belonging to the department. He shall devote his whole time to the municipal affairs, interests of the Municipality, and to the preservation of peace, order, safety, and cleanliness thereof. The Department shall execute and enforce all laws and also the orders of the Governing Body. It shall be the duty of the Department to protect the rights of persons and property. There shall be a proper police force at all fires. The Department shall take notice of all nuisances, impediments, obstructions, and defects in the streets, avenues, alleys, business places, and residences of the Municipality. The Department shall execute, or cause to be executed, the processes issued and shall cause all persons arrested to be brought before the proper court for trial as speedily as possible. The County Sheriff and all regular and special policemen shall become thoroughly conversant with the laws of the Municipality, and shall see that the same are strictly enforced and shall make sworn complaints against any person or persons for violation of the same. (Ref. 19-3801 thru 19-3804 RS Neb.)

§3-502 POLICE DEPARTMENT; RESERVE OFFICER BOND. No appointment of a law enforcement reserve officer shall be valid until a bond in the amount of two thousand (\$2,000.00) dollars, payable to the City, has been filed with the Municipal Clerk by the individual appointed, or a blanket surety bond arranged and paid for by the Governing Body and bonding all such officers of the Governing Body has been filed. Such bonds shall be subject to the provisions of Chapter 11, Article 1, Nebraska Revised Statutes. (Ref. 81-1444 RS Neb.)

Article 6 Parks Department

§3-601 MUNICIPAL PARKS; OPERATION AND FUNDING. The Municipality owns and operates the Municipal Parks and other recreational areas through the Parks Committee. The Governing Body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Park 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 Park Fund and shall remain in the custody of the Municipal Treasurer. The Committee shall have the authority to adopt rules and regulations for the efficient management of the Municipal Parks and other recreational areas of the Municipality. The Committee shall not enter into a contract of any nature which involves an expenditure of funds, except for ordinary operating expenses, unless the contract has been approved by resolution of the majority of the members of the Governing Body prior to the contractual agreement. (Ref. 17-948 thru 17-952 RS Neb.)

§3-602 MUNICIPAL PARKS; INJURY TO PROPERTY. It shall be unlawful for any person to maliciously or willfully cut down, injure, or destroy any tree, plant, or shrub. It shall be unlawful for any person to injure or destroy any sodded or planted area, or injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the Municipal Parks and recreational areas. No person shall commit any waste on or litter the Municipal Parks or other public grounds.

Article 7. Library

§3-701 MUNICIPAL LIBRARY; OPERATION AND FUNDING.

The Municipality owns and manages the Municipal Library through the Library Board. The Governing Body, for the purpose of defraying the cost of the management, purchases, improvements, and maintenance of the Library 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 Municipality that is subject to taxation. The revenue from the said tax shall be known as the Library Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the Municipal Library. The Library Fund shall at all times be in the custody of the Municipal Treasurer. The Board shall have the power and authority to appoint the librarian and to hire such other employees as they may deem necessary and may pass such other rules and regulations for the operation of the Library as may be proper for its efficient operation. All actions by the Board shall be under the supervision and control of the Governing Body. (*Ref. 51-201, 51-202, 51-211 RS Neb.*)

§3-702 MUNICIPAL LIBRARY; BOOKS. The Library Board may authorize the sale, exchange, or disposal of any surplus, damaged, defective, obsolete, or duplicate books in the Library. Records shall be kept of any such surplus, damaged, defective, obsolete, or duplicate books so disposed of. (*Ref. 51-207 RS Neb.*)

§3-703 MUNICIPAL LIBRARY; RULES AND REGULATIONS. The Library Board shall establish rules and regulations for the governing of the Municipal Library for the preservation and efficient management thereof. They shall fix and impose by general rules, penalties and forfeitures for injury to the Library grounds, rooms, books, or other property, or for failure to return a book. All fees, penalties, and forfeitures may be collected in civil action in the event of failure, neglect, or refusal to pay the said assessments. (*Ref. 51-205, 51-214 RS Neb.*)

§3-704 MUNICIPAL LIBRARY; BOOKS ISSUED. The Librarian shall keep, or cause to be kept, a register of all books issued and returned at the time they shall so be issued and returned. None of the books shall be detained more than fourteen (14) days without being renewed. No book may be renewed more than two (2) consecutive times by any person without the special permission of the Librarian or an authorized employee of the Municipal Library. (*Ref. 51-211 RS Neb.*)

§3-705 MUNICIPAL LIBRARY; DAMAGED AND LOST BOOKS. Any person who injures or fails to return any book taken from the Library shall forfeit and pay to the Library not less than the value of the book in addition to any replacement costs and penalty which the Library Board may assess. (*Ref. 51-211 RS Neb.*)

§3-706 MUNICIPAL LIBRARY; BOOK LABELING. It shall be the duty of the Librarian to label, or cause to be labeled, with a printed or stamped label, proof of Municipal ownership on each book, and also to write the said proof on the thirtieth (30th) page of each volume. (*Ref. 51-211 RS Neb.*)

§3-707 MUNICIPAL LIBRARY; BOOK REMOVAL. It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book from the Library, without the consent of the Librarian, or an authorized employee of the Library. Any person removing a book from the Library without properly checking it out shall be deemed to be guilty of a misdemeanor. (*Ref. 51-211 RS Neb.*)

§3-708 MUNICIPAL LIBRARY; COST OF USE. The Municipal Library shall be free for the use of the inhabitants of the Municipality. The Librarian may exclude from the use of the Library and reading rooms any person who shall willfully violate or refuse to comply with the rules and regulations established for the government thereof. (*Ref. 51-201, 51-212 RS Neb.*)

§3-709 MUNICIPAL LIBRARY; MONEY COLLECTED. Any money collected by the Library shall be turned over monthly by the Librarian to the Municipal Treasurer along with a report of the sources of the revenue. (*Ref. 51-209 RS Neb.*)

§3-710 MUNICIPAL LIBRARY; LIBRARY BOARD; ANNUAL REPORT. The Library Board shall, on or before the second Monday in February in each year, make a report to the Village Board of the condition of its trust on the last day of the prior fiscal year. The report shall show all money received and credited or expended; the number of materials held, including books, video and audio materials, software programs, and materials in other formats; the number of periodical subscriptions on record, including newspapers; the number of materials added and the number withdrawn from the collection during the year; the number of materials circulated during the year; and other statistics, information, and suggestions as the Library Board may deem of general interest or as the Village Board may require. The report shall be verified by affidavit of the President and Secretary of the Library Board. (*Ref. 51-213 RS Neb.*) (*Ord. No. 292, 9/7/05*)

Broadwater Code

Article 8. Dumping Grounds

**§3-801 MUNICIPAL DUMPING GROUND; OPERATION
AND FUNDING.** *(Repealed by Ord. No. 152, 1/4/93)*

Broadwater Code

Article 9. Penal Provision

§3-901 VIOLATION; PENALTY. (1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred (\$500.00) dollars. A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

(2) (a) Whenever a nuisance exists as defined in this chapter, the Municipality may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (*Ref. 17-207, 17-505, 18-1720, 18-1722 RS Neb.*) (*Amended by Ord. No. 254, 10/2/00*)

Broadwater Code

Chapter 4

HEALTH AND SANITATION

Article 1. General Provisions

§4-101 HEALTH; REGULATION. For the purpose of promoting the health and safety of the residents of the Municipality, the Board of Health shall, from time to time, adopt rules and regulations relative thereto, and shall make such inspections, prescribe such penalties, and make such reports as may be necessary toward that purpose. (*Ref. 17-208 RS Neb.*)

§4-102 HEALTH; ENFORCEMENT OFFICIAL. The County Sheriff, as the Quarantine Officer, shall be the chief health officer of the Municipality. It shall be his duty to notify the Governing Body and the Board of Health of health nuisances within the Municipality and its zoning jurisdiction. (*Ref. 17-208 RS Neb.*)

§4-103 HEALTH; STATE RULES. (*Repealed by Ord. No. 256, 5/7/01*)

§4-104 HEALTH; COUNTY HEALTH BOARD. It shall be the duty of the Board of Health to work closely with the County Health Board in protecting the health and welfare of the residents of the Municipality.

Broadwater Code

Article 2. Garbage Disposal

[Editor's Note: Article 2 was repealed and replaced in its entirety by Ordinance No. 152, 1/4/93]

§4-201 TERMS; DEFINED. For the purpose of this Chapter, the following terms have the meanings thereby assigned:

GARBAGE, YARD WASTE AND TRASH DISPOSAL SYSTEM: All processes related to the systematical collection, transportation and disposal of garbage, yard waste and trash within the City.

COLLECTION SERVICE: The service of a regular collection and hauling away of garbage, yard waste and trash by and under the administration of the Village.

GARBAGE: All vegetable refuse from kitchens, all household waste from that which has been prepared for use as a food or table refuse, or offal, and every accumulation of animal, vegetable or other matter that attend the preparation, consumption, decay, dealing in or storage of, meats, fish, fowls, and vegetables.

YARD WASTE: Tree and shrubbery trimming, lawn clippings and other residue from lawns and gardens.

TRASH: Waste paper, scrap lumber, packing boxes, crates, paper or paste board boxes, cartons, excelsior, hay, straw, ashes, and other combustible packing materials and refuse, broken glass, tin cans and containers, and all other waste articles, substances and materials not included in the foregoing definitions of garbage and yard waste.

§4-202 MUNICIPAL DISPOSAL SYSTEM; ESTABLISHED; EXCLUSIVE; EXCEPTIONS. A Municipal system and service for the disposal of garbage, yard waste and trash is hereby established. No person, other than employees, agents and representatives of the

City, or independent contractors authorized by the City, shall collect, remove or transport any garbage, yard waste or trash through or upon any street or alley within the City. The owner, tenant or lessee of any premises is not prohibited from gathering, collecting, transporting and disposing of garbage, yard waste and trash accumulated upon such premises, in accordance with all applicable laws, rules and regulations now in effect or hereafter enacted or promulgated by competent authority; nor shall one engaged by the owner, tenant or lessee of any premises to trim trees, shrubbery, gardens or lawns be prohibited from disposing of the resultant accumulation of trash. Tree limbs which are cut in lengths of more than four feet (4') and discarded household appliances will be the responsibility of the resident to dispose of.

§4-203 COLLECTION; TIME, NOTICE, LOCATION OF CONTAINERS, BUNDLES. The collection of garbage, yard waste and trash from the various premises within the Village shall be effected at such times as may be designated by the Village Clerk. The collection services shall be rendered once weekly for residential units. For business or commercial establishments the frequency of collection shall be designated by the Village Clerk depending on the volume of garbage, yard waste and trash accumulated for collection. The owner, tenant or lessee of premises at the times so designated for collection, shall cause all of the containers and bundles in which garbage, yard waste and trash have been accumulated to be conveniently placed along the property line of the premises abutting the alley at the rear thereof, or, in the event the premises do not abut upon an alley, all such containers and bundles shall be conveniently placed along the property line abutting the street or avenue in front of the premises, or at such other location as may be designated by the Village Clerk.

§4-204 SERVICE RATES. (1) The following rates for garbage collection service are hereby established:

Each one-family unit sharing 300 gallon capacity container	\$14.95
Each commercial business sharing 300 gallon capacity container	\$15.52
Each commercial business or one-family unit requesting own 300 gallon capacity container	\$31.13
Each commercial business using 600 gallon capacity container	\$58.13
Each commercial business or one-family unit using yard waste container	\$2.00

(2) The foregoing charges shall be added to and be payable as part of the joint Municipal utility bill as provided for in section 3-301 of this Code. (*Ord. No. 152, 1/4/93*) (*Amended by Ord. Nos. 155, 10/4/93; 236, 7/5/99; 239, 11/1/99; 259, 2/4/02; 282, 5/4/04*) (*Formerly § 4-404*)

§4-205 REGULATIONS. Any refuse which is not in a container will be the responsibility of the resident to dispose of. All refuse of any nature which the Village will accept for disposal shall be placed in the container. After September 1, 1994, the Village will not accept yard waste for disposal, either in containers or otherwise. On or after September 1, 1995, the Village will not accept waste tires for disposal unless the tires have been processed in accordance with the rules promulgated by the Nebraska Department of Environmental Control. On or after September 1, 1996, the Village will not accept for disposal unregulated hazardous waste, as defined by regulations of the Nebraska Department of Environmental Control, except household hazardous wastes. (*Ord. No. 152, 1/4/93*) (*Formerly § 4-405*)

§ 4-206 SOLID WASTE; HAZARDOUS ITEMS AND ITEMS REQUIRING SPECIAL HANDLING OR DISPOSAL.

(A) No person shall put out any of the items specified below to be collected by the municipal solid waste collector for land disposal.

(1) Yard waste from April 1 through November 30 of each year unless such yard waste has been separated from its source and is put out for separate collection and delivery to the landfill for the purpose of soil conditioning or composting under the conditions otherwise specified.

(2) Lead-acid batteries.

(3) Waste oil.

(4) Waste tires in any form except tires that are nonrecyclable. Tires are not considered disposed if they meet the requirements of Neb. RS 13-2039.

(5) Discarded household appliances.

(6) Unregulated hazardous wastes, except household hazardous wastes, which are exempt from the regulations under the Environmental Protection Act.

(B) Any such items shall be disposed of only as permitted under the Nebraska Integrated Solid Waste Management Act or any amendments thereof. (*Ref. 13-2039 RS Neb.*)

(C) For purposes of this section:

(1) Land disposal includes, but is not limited to, incineration at a landfill.

(2) Nonrecyclable tire means a press-on solid tire, a solid pneumatic shaped tire, or a foam pneumatic tire. (*Ref. 13-2039 RS Neb.*)

(3) Waste tire means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect. (*Ref. 13-2013.02 RS Neb.*)

(4) Yard waste means grass and leaves. (*Ref. 13-2016.01 RS Neb.*) (*Ord. No. 286, 7/5/04*)

Article 3. Nuisances

§4-301 NUISANCES; GENERALLY DEFINED. A nuisance consists in doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

1. Injures or endangers the comfort, repose, health, or safety of others;
2. Offends decency;
3. Is offensive to the senses;
4. Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the Municipality.
5. In any way renders other persons insecure in life or the use of property, or
6. Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

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

§4-302 NUISANCES; SPECIFICALLY DEFINED.

The maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things are hereby declared to be nuisances:

1. Any odorous, putrid, unsound or unwholesome grain, meat, hides, skins, feathers, vegetable matter, or the whole or any part of any dead animal, fish, or fowl.
2. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats, or which are foul or malodorous.
3. Filthy, littered or trash-covered cellars, houseyards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings, or premises.

4. Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the Municipality.
5. Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity; provided, nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the Municipality, nor the dumping of non-putrifying waste in a place and manner approved by the health officer.
6. Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles.
7. Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of said articles or materials create a condition in which flies or rats may breed or multiply, or which may be a fire danger or which are so unsightly as to depreciate property values in the vicinity thereof.
8. Any unsightly building, billboard, or other structure, or any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished, which said buildings, billboards or other structures are either a fire hazard, a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity thereof.
9. All places used or maintained as junk yards, or dumping grounds, or for the wrecking and dissembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors, or machinery of

any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof.

10. Stagnant water permitted or maintained on any lot or piece of ground.
11. Stockyards, granaries, mills, pig pens, cattle pens, chicken pens or any other place, building or enclosure, in which animals or fowls of any kind are confined or on which are stored tankage or any other animal or vegetable matter, or in which any animal or vegetable matter including grain is being processed, when said places in which said animals are confined, or said premises on which said vegetable or animal matter is located, are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom, to the annoyance of inhabitants of the Municipality, or are maintained and kept in such a manner as to be injurious to the public health.
12. Any unlicensed motor vehicle, motor vehicle body, motor vehicle chassis or parts therefrom, or any partially dismantled, non-operating, wrecked or junked vehicle that is stored on any street or highway within the Village, or is stored on any property that is owned by, or that is under the control of any person as tenant, occupant, lessor or otherwise. Provided, that motor vehicles, motor vehicle bodies and motor vehicle chassis or parts therefrom that are stored in a completely enclosed building, or are completely covered with a tarp or other acceptable material to the Village, or are stored within an enclosed fence that keeps the motor vehicle, motor vehicle bodies and motor vehicle chassis or parts therefrom completely out of public view, are excluded from this definition.

13. All other things specifically designated as nuisances elsewhere in this Code.

(Ref. 17-207, 18-1720 RS Neb.) (Amended by Ord. No. 241, 11/6/00)

§4-303 NUISANCES: ABATEMENT PROCEDURE.

It shall be the duty of every owner, occupant, lessee, or mortgagee of real estate in the Municipality to keep such real estate free of public nuisances. Upon determination by the Board of Health that said owner, occupant, lessee, or mortgagee has failed to keep such real estate free of public nuisances, the Governing Body shall thereupon cause notice to be served upon the owner, occupant, lessee, mortgagee or agent thereof, by publication and by certified mail. Such notice shall describe the condition as found by the Board of Health and state that said condition has been declared a public nuisance, and that the condition must be remedied at once. If the person receiving the notice has not complied therewith or taken an appeal from the determination of the Board of Health within five (5) days after receipt of certified mail or within five (5) days after date of publication whichever is later, the Board of Health shall notify the Governing Body of such noncompliance and the Governing Body shall, upon receipt of such notice, cause a hearing date to be fixed and notice thereof to be served upon the owner, occupant, lessee, or mortgagee, or agent of the real estate. Such notice of hearing shall be by personal service or certified mail and require such party or parties to appear before the Governing Body to show cause why such condition should not be found to be a public nuisance and remedied. A return of service shall be required by the Governing Body. Such notice shall be given not less than five (5) days prior to the time of hearing, provided that whenever the owner, lessee, occupant, or mortgagee of such real estate is a nonresident or cannot be found in the State, then the Municipal Clerk shall publish, in a newspaper of general circulation in the Municipality, such notice of hearing for two (2) consecutive weeks, the last publication to be at least one (1) week prior to the date set for the hearing. Upon the date fixed for the hearing and pursuant to notice,

the Governing Body shall hear all objections made by interested parties and shall hear evidence submitted by the Board of Health. If after consideration of all of the evidence, the Governing Body shall find that the said condition is a public nuisance, it shall, by resolution, order and direct the owner, occupant, lessee, or mortgagee to remedy the said public nuisance at once; provided, the party or parties may appeal such decision to the appropriate court for adjudication, during which proceedings the decision of the Governing Body shall be stayed. Should the owner or occupant refuse or neglect to promptly comply with the order of the Governing Body, the Governing Body shall proceed to cause the abatement of the described public nuisance. Upon completion of the work by the Municipality, a statement of the cost of such work shall be transmitted to the Governing Body, which is authorized to bill the property owner or occupant, or to levy the cost as a special assessment against the land. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments. (*Ref. 17-207, 18-1720 RS Neb.*)

§4-304 NUISANCES; JURISDICTION. The Chairman and Village Marshal of the Municipality are directed to enforce this Municipal Code against all nuisances. The jurisdiction of the Chairman, Village Marshal, and court shall extend to, and the territorial application of this Chapter shall include, all territory adjacent to the limits of the Municipality within one (1) mile thereof and all territory within the corporate limits. (*Ref. 18-1720 RS Neb.*)

§4-305 NUISANCES; ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL. In cases of appeal from an action of the Governing Body condemning real property as a nuisance or as dangerous under the police powers of the Municipality, the owners of the adjoining property may intervene in the action at any time before trial. (*Ref. 19-710 RS Neb*)

§4-306 NUISANCES; DEAD OR DISEASED TREES.

(1) It is hereby declared a nuisance for a property owner to

permit, allow, or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits of the Municipality.

(2) It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees on private property within the corporate limits of the Municipality. For the purpose of carrying out the provisions of this section, the Municipal Police shall have the authority to enter upon private property to inspect the trees thereon.

(3) Notice to abate and remove such nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. Within thirty (30) days after the receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the Municipality may have such work done and may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied or assessed. (*Ref. 17-555, 18-1720, 28-1321 RS Neb.*) (*Ord. No. 174, 8/7/95*)

Article 4. Penal Provisions

§4-401 VIOLATION; PENALTY. (1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred (\$500.00) dollars. A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

(2) (a) Whenever a nuisance exists as defined in this chapter, the Municipality may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (*Ref. 17-207, 17-505, 18-1720, 18-1722 RS Neb.*) (*Amended by Ord. No. 254, 10/2/00*)

§4-402 ABATEMENT OF NUISANCE. (*Repealed by Ord. No. 254, 10/2/00*)

§4-404 SERVICE RATES. *Transferred to Chapter 4, Article 2 as section 4-204.*

§4-405 REGULATIONS. *Transferred to Chapter 4, Article 2 as section 4-205.*

Broadwater Code

Chapter 5

TRAFFIC REGULATIONS

Article 1. Definitions

§5-101 **DEFINITIONS.** The words and phrases used in this Chapter, pertaining to motor vehicles and traffic regulations, shall be construed as defined in Chapter 60, Article 6 of the Revised Statutes of Nebraska, 1943, as now existing or hereafter amended. If not defined in the designated statutes, the word or phrase shall have its common meaning. (*Ref. 60-606 through 60-676 RS Neb.) (Amended by Ord. No. 162, 9/6/94)*

Article 2. Municipal Traffic Regulations

§5-201 TRUCK ROUTES. The Governing Body may, by resolution, designate certain streets in the Municipality that trucks shall travel upon, and it shall be unlawful for persons operating such trucks to travel on other streets than those designated for trucks, unless to pick up or deliver goods, wares, or merchandise, and in that event, the operator of such truck shall return to such truck routes as soon as possible in traveling through, or about the Municipality. The Governing Body shall cause notices to be posted, or shall erect signs indicating the streets so designated as truck routes. (*Ref. 60-681 RS Neb.*)

§5-202 TURNING; "U" TURNS. No vehicle shall be turned so as to proceed in the opposite direction, except at a street intersection. (*Ref. 60-6,160, 60-680 RS Neb.*)

§5-203 RIGHT-OF-WAY. (1) When two (2) vehicles approach, or enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right when the paths of such vehicles intersect and there is danger of a collision, unless otherwise directed by a Municipal Policeman stationed at the intersection.

(2) The driver of a vehicle intending to turn to the left within an intersection, or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

(3) The driver of a vehicle on any street shall yield the right-of-way to a pedestrian crossing such street within any clearly marked crosswalk, or at any regular pedestrian crossing at the end of a block where the movement of traffic is being regulated by traffic officers or traffic direction devices. Every pedestrian crossing a street at any point other than a pedestrian crossing, crosswalk, or intersection shall yield the right-of-way to vehicles upon the street.

(4) The driver of a vehicle emerging from or entering an alley, building, private road, or driveway shall yield the right-of-way to any pedestrian approaching on any sidewalk.

(5) The driver of a vehicle entering a Municipal street from a private road or drive shall yield the right-of-way to all vehicles approaching on such streets.

(6) The driver of a vehicle upon a street shall yield the right-of-way to authorized emergency vehicles when the latter are operated upon official business and the drivers thereof make proper use of visual or audible signals. (Ref. 60-6,146 through 60-6,154 RS Neb.) (Amended by Ord. No. 163, 9/6/94)

§5-204 SIGNS, SIGNALS. The Governing Body may, by resolution, provide for the placing of stop signs, or other signs, signals, standards, or mechanical devices in any street or alley under the Municipality's jurisdiction for the purpose of regulating, or prohibiting traffic thereon. Such resolution shall describe the portion of the street or alley wherein traffic is to be regulated or prohibited; the regulation or prohibition; the location where such sign, signal, standard or mechanical device shall be placed; and the hours when such regulation or prohibition shall be effective. It shall be unlawful for any person to fail, neglect, or refuse to comply with such regulation, or prohibition. (Ref. 60-6,119 through 60-6,121, 60-680 RS Neb.)

§5-205 STOP SIGNS. Every person operating any vehicle shall, upon approaching any stop sign erected in accordance with the resolution prescribed heretofore, cause such vehicle to come to a complete stop before entering or crossing any street, highway, or railroad crossing. The vehicle operator shall stop at a marked stop line, or, if there is no stop line, before entering the crosswalk; but if neither is indicated, then as near the right-of-way line of the intersecting roadway as possible. (Ref. 60-6,119 through 60-6,121, 60-680 RS Neb.)

§5-206 LITTERING. It shall be unlawful for any person to drop, or cause to be left, upon any municipal highway, street, or alley, except at places designated by the Governing Body, any rubbish, debris, or waste, and any person so doing shall be guilty of littering. (Ref. 39-311 RS Neb.)

§5-207 GLASS; POINTED OBJECTS. No person shall throw, cast, lay, or place upon any street any thorns, nails, tacks, glass, bottles, window glass, or other articles made of, or

containing, glass, and in case of an accident causing the breaking of any glass upon any street, the owner or person in charge of such glass, or the person responsible for such breakage, shall at once remove, or cause the same to be removed, from the street. (Ref. 39-311 RS Neb.)

§5-208 SIGNS; DEFACING OR INTERFERING WITH. It shall be unlawful for any person to willfully deface, injure, remove, obstruct or interfere with any official traffic sign or signal. (Ref. 60-6,129 RS Neb.)

§5-209 SPEED LIMITS. (1) No person shall operate a motor vehicle on any street or alleyway of the Village at a speed greater than what is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing.

(2) Except for Nebraska State Highway No. 26, and except as otherwise provided for in this section, no person shall operate a motor vehicle on any street or alleyway within the corporate limits of the Village of Broadwater in excess of twenty-five (25) miles per hour in the residential district, and twenty (20) miles per hour within the business district of the Village.

(3) No person shall operate a motor vehicle at a speed in excess of twenty (20) miles per hour in the alleyway or in and around any of the following streets:

Kepler Avenue on the North side of the school;
Starr Street on the West side of the school; and
Smith Avenue on the South side of the school.

This twenty (20) miles per hour speed limit shall be enforced during all school hours and all school activities.

(4) Appropriate signs showing the maximum speed limits established pursuant to this section or any Board resolution shall be erected next to the curb in a conspicuous position on the streets of the Village. However, this section shall not require the erection of signs on streets where the maximum speed limit established by the Village is the same as the maximum speed limit prescribed by state law.

(5) The Village Board, whenever it shall determine by Resolution that the public safety, convenience, or welfare

require or warrant, may establish additional maximum speeds at which motor vehicles may be operated on particular streets, or part of streets, within the Village. This shall include the power to establish temporary speed limits on particular streets, or parts of streets. It shall be unlawful for any person to operate a motor vehicle on a street or part of a street in excess of the maximum speed limits established by Board resolution.

(6) The speed limits provided for in this section shall not apply to medical, police or fire personnel when answering emergency calls demanding speed in excess of the speed limits established by this section.

(7) Any person violating any of the provisions of this section shall, upon conviction, be fined in any sum not more than five hundred dollars (\$500.00), and shall pay the costs of prosecution. *(Amended by Ord. Nos. 210, 11/3/97; 254, 10/2/00)*

Broadwater Code

Article 3. Parking

§5-301 PARKING; GENERALLY. No person shall park any vehicle, or approach the curb with a vehicle, except when headed in the direction of the traffic. Vehicles, when parked, shall stand parallel with and adjacent to the curb or edge of the roadway, in such manner as to have both right wheels within twelve inches (12") of the curb or edge of the roadway, and so as to leave at least four feet (4') between the vehicle so parked and any other parked vehicles, except where the Governing Body designates that vehicles shall be parked at an angle so as to have the front right wheel at the curb or edge of the roadway. Where stalls are designated either on the curb or pavement, vehicles shall be parked within such stalls. No vehicle shall be parked upon a roadway when there is a shoulder adjacent to the roadway which is available for parking. (*Ref. 60-680, 60-6,167 RS Neb.*) (*Amended by Ord. No. 164, 9/6/94*)

§5-302 PARKING; DESIGNATION. The Governing Body may, by resolution, designate any street, or portion thereof, where vehicles shall be parked parallel with and adjacent to the curb or at an angle so as to have the right front wheel at the curb. (*Ref. 60-6,167, 60-680 RS Neb.*)

Broadwater Code

Article 4. Penal Provision

§5-401 VIOLATION; PENALTY. (1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred (\$500.00) dollars. A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

(2) (a) Whenever a nuisance exists as defined in this chapter, the Municipality may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (*Ref. 17-207, 17-505, 18-1720, 18-1722 RS Neb.*) (*Amended by Ord. No. 254, 10/2/00*)

Broadwater Code

Article 3. Parking

§5-301 PARKING; GENERALLY. No person shall park any vehicle, or approach the curb with a vehicle, except when headed in the direction of the traffic. Vehicles, when parked, shall stand parallel with and adjacent to the curb or edge of the roadway, in such manner as to have both right wheels within twelve (12") inches of the curb or edge of the roadway, and so as to leave at least four (4') feet between the vehicle so parked and any other parked vehicles, except where the Governing Body designates that vehicles shall be parked at an angle so as to have the front right wheel at the curb or edge of the roadway. Where stalls are designated either on the curb or pavement, vehicles shall be parked within such stalls. (Ref. 39-673, 39-697 RS Neb.)

§5-302 PARKING; DESIGNATION. The Governing Body may, by resolution, designate any street, or portion thereof, where vehicles shall be parked parallel with and adjacent to the curb or at an angle so as to have the right front wheel at the curb. (Ref. 39-673, 39-697 RS Neb.)

Article 4. Penal Provision

§5-401 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 a misdemeanor and upon conviction thereof, shall be fined not more than one hundred (\$100.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

Chapter 6
POLICE REGULATIONS

Article 1. Dogs

§6-101 DOGS; LICENSE. Any person who shall own, keep, or harbor a dog over the age of six (6) months within the Municipality shall within thirty (30) days after acquisition of the said dog acquire a license for each such dog annually by or before the first (1st) day of May of each year. The said tax shall be delinquent from and after May tenth (10th); Provided, the possessor of any dog brought into or harbored within the corporate limits subsequent to May first (1st) of any year, shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within ten (10) days thereafter. Licenses shall be issued by the Municipal Clerk upon the payment of a license fee set by resolution of the Governing Body and on file at the Clerk's office. Said license shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog. The owner shall state at the time the application is made and upon printed forms provided for such purpose, his name and address and the name, breed, color, and sex of each dog owned and kept by him. A certificate that the dog has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown. (Ref. 17-526, 54-603, 71-4412 RS Neb.)

§6-102 DOGS; LICENSE TAGS. Upon the payment of the license fee, the Municipal Clerk shall issue to the owner of a dog a license certificate and a metallic tag for each dog so licensed. The metallic tags shall be properly attached to the collar or harness of all dogs so licensed and shall entitle the owner to keep or harbor the said dog until the thirtieth (30th) day of April following such licensing. In the event that a license tag is lost and upon satisfactory evidence that the original plate or tag was issued in accordance with the provisions herein, the Municipal Clerk shall issue a duplicate or new tag for the balance of the year for which

the license tax has been paid and shall charge and collect a fee set by resolution of the Governing Body for each duplicate or new tag so issued. All license fees and collections shall be immediately credited to the General Fund. It shall be the duty of the Municipal Clerk to issue tags of a suitable design that are different in appearance each year. (Ref. 17-526, 54-603 RS Neb.)

§6-103 DOGS; WRONGFUL LICENSING. It shall be unlawful for the owner, keeper, or harbinger of any dog to permit or allow such dog to wear any license, metallic tag or other Municipal identification than that issued by the Municipal Clerk for dogs, nor shall the owner, keeper, or harbinger wrongfully and knowingly license an unspayed female dog with a license prescribed for a male or spayed female dog. (Ref. 17-526, 54-603 RS Neb.)

§6-104 DOGS; OWNER DEFINED. Any person who shall harbor or permit any dog to be for ten (10) days or more in or about his or her house, store, or enclosure, or to remain to be fed, shall be deemed the owner and possessor of such dog and shall be deemed to be liable for all penalties herein prescribed. (Ref. 54-606, 71-4401 RS Neb.)

§6-105 DOGS; PROCLAMATION. It shall be the duty of the Governing Body whenever in its opinion the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog to muzzle the same, or to confine it for a period of not less than thirty (30) days or more than ninety (90) days from the date of such proclamation, or until such danger is passed. The dogs may be harbored by any good and sufficient means in a house, garage, or yard on the premise wherein the said owner may reside. Upon issuing the proclamation it shall be the duty of all persons owning, keeping, or harboring any dog to confine the same as herein provided. (Ref. 17-526 RS Neb.)

§6-106 DOGS; UNCOLLARED. All dogs found running at large upon the streets and public grounds of the Municipality without a collar or harness are hereby declared a public nuisance. (Ref. 54-605 RS Neb.)

§6-107 DOGS; RUNNING AT LARGE. It shall be unlawful for the owner of any dog to allow such dog to run at large at any time within the corporate limits of the Municipality. "Running at Large" shall not mean under control of the owner or a responsible person. (Ref. 17-547 RS Neb.) (Amended by Ord. No. 141, 4/6/87)

§6-108 DOGS; CAPTURE IMPOSSIBLE. The Governing Body shall have the authority to kill any animals showing vicious tendencies, or characteristics of rabies which make capture impossible because of the danger involved. (Ref. 54-605 RS Neb.)

§6-109 DOGS; VICIOUS. (Repealed by Motion on 4/6/87)

§6-110 DOGS; KILLING AND POISONING. It shall be unlawful to kill, or to administer, or cause to be administered, poison of any sort to a dog, or in any manner to injure, maim, or destroy, or in any manner attempt to injure, maim, or destroy any dog that is the property of another person, or to place any poison, or poisoned food where the same is accessible to a dog; Provided, that this Section shall not apply to the Governing Body acting within their power and duty. (Ref. 28-1002 RS Neb.)

§6-111 DOGS; BARKING AND OFFENSIVE. It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any neighborhood, or person, or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the

Municipality. Upon the written complaint of two (2) or more affected persons from different households, filed within any thirty (30) day period with the Municipal Clerk, that any dog owned by the person named in the complaint is an annoyance or disturbance, or otherwise violates the provisions of this Section the Governing Body shall investigate the complaint and, if in their opinion the situation warrants, shall notify the owner to silence and restrain such dog. (Ref. 17-526 RS Neb.)

§6-112 DOGS; FEMALE IN SEASON. It is hereby declared unlawful for the owner, keeper, or harbinger of a female dog to permit her to run at large within the Municipality while in season. Any such female dog found running at large in violation of this Section shall be declared to be a public nuisance and as such may be impounded or killed according to the provisions herein. (Ref. 17-526 RS Neb.)

§6-113 DOGS; FIGHTING. It shall be unlawful for any person, by agreement or otherwise, to set dogs to fighting, or by any gesture or word to encourage the same to fight. (Ref. 17-526 RS Neb.)

§6-114 DOGS; LIABILITY OF OWNER. It shall be unlawful for any person to allow a dog owned, kept, or harbored by him, or under his charge or control, to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such dog, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained. (Ref. 54-601, 54-602 RS Neb.)

§6-115 DOGS; REMOVAL OF TAGS. It shall be unlawful for any person to remove or cause to be removed, the collar, harness, or metallic tag from any licensed dog without the consent of the owner, keeper, or possessor thereof. (Ref. 17-526 RS Neb.)

§6-116 DOGS; RABIES SUSPECTED. Any dog suspected of being afflicted with rabies, or any dog not vaccinated in accordance with the provisions of this Article which has bitten any person and caused an abrasion of the skin, shall be seized and impounded under the supervision of the Board of Health for a period of not less than ten (10) days. If upon examination by a veterinarian, the dog has no clinical signs of rabies at the end of such impoundment, it may be released to the owner, or, in the case of an unlicensed dog, it shall be disposed of in accordance with the provisions herein. If the owner of the said dog has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least ten (10) days, at which time the dog shall be examined by a licensed veterinarian. If no signs of rabies are observed, the dog may be released from confinement. (*Ref. 71-4406 RS Neb.*)

Article 2. Animals Generally

§6-201 ANIMALS; RUNNING AT LARGE. It shall be unlawful for the owner, keeper, or harbinger of any animal, or any person having the charge, custody, or control thereof, to permit a horse, mule, cow, sheep, goat, swine, or other animal to be driven or run at large on any of the public ways and property, or upon the property of another, or to be tethered or staked out in such a manner so as to allow such animal to reach or pass into any public way. (*Ref. 17-526, 17-547 RS Neb.*)

§6-202 ANIMALS; WILD. No wild animals may be kept within the corporate limits except such animals kept for exhibition purposes by circuses and educational institutions. (*Ref. 17-207 RS Neb.*)

§6-203 ANIMALS; CRUELTY. No person shall cruelly or unnecessarily beat, overwork, or insufficiently shelter or feed any animal within the Municipality. (*Ref. 28-1001, 28-1002 RS Neb.*)

§6-204 ANIMALS; KILLING AND INJURING. No person shall kill or injure any animal by the use of firearms, stones, clubs, poisons, or any other manner unless the animal is vicious or dangerous and cannot be captured without danger to the persons attempting to effect a capture of the said animal. (*Ref. 28-1001, 28-1002 RS Neb.*)

§6-205 ANIMALS; ENCLOSURES. (*Repealed by Motion on 4/6/87*)

§6-206 ANIMALS; DANGEROUS ANIMALS. (*Repealed by Motion on 4/6/87*)

§6-207 ANIMALS; ANIMAL FIGHTING PROHIBITED. It shall be unlawful for any person to cause, instigate, stage, train or torment any animal for or permit any fight between any animal and another animal or human. Any person found to have violated this Section shall be guilty of a misdemeanor and shall be punished as provided for in Section 6-401.

Article 3. Miscellaneous Misdemeanors

§6-301 MISDEMEANORS; DISTURBING THE PEACE. It shall be unlawful for any person to intentionally disturb the peace and quiet of any person, family or neighborhood. (*Ref. 28-1322 RS Neb.*)

§6-302 MISDEMEANORS; MAINTAINING A NUISANCE. It shall be unlawful for any person to erect, keep up or continue and maintain any nuisance to the injury of any part of the citizens of the Municipality. (*Ref. 18-1720, 28-1321 RS Neb.*)

§6-303 MISDEMEANORS; PROHIBITED FENCES. It shall be unlawful for any person to erect, or cause to be erected, and maintain any barbed wire or electric fence within the corporate limits, where such fence abuts a public sidewalk, street or alley. (*Ref. 18-1720, 28-1321, 39-705 RS Neb.*)

§6-304 MISDEMEANORS; APPLIANCES IN YARD. It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other dangerous appliance to be in the open and accessible to children whether on private or public property unless he shall first remove all doors and make the same reasonably safe. (*Ref. 18-1720, 28-1321 RS Neb.*)

§6-305 MISDEMEANORS; WEEDS, LITTER, STAGNANT WATER (A) Lots or pieces of ground within the Village shall be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon.

(B) The owner or occupant of any lot or piece of ground within the Village shall keep the lot or piece of ground and the adjoining streets and alleys free of any growth of twelve (12) inches or more in height of weeds, grasses, or worthless vegetation.

(C) The throwing, depositing, or accumulation of litter on any lot or piece of ground within the Village is prohibited, except that grass, leaves, and worthless vegetation may be used as a ground mulch or in a compost pile.

(D) It is hereby declared to be a nuisance to permit or maintain any growth of twelve (12) inches or more in height of weeds, grasses, or worthless vegetation or to litter or cause litter to be deposited or remain thereon except in proper receptacles.

(E) Any owner or occupant of a lot or piece of ground shall, upon conviction of violating this section, be guilty of an offense.

(F) (1) Notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the Village or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed. Within five (5) days after receipt of such notice or publication or posting, whichever is applicable, if the owner or occupant of the lot or piece of ground does not request a hearing with the Village or fails to comply with the order to abate and remove the nuisance, the Village may have such work done. The costs and expenses of any such work shall be paid by the owner.

(2) If unpaid for two (2) months after such work is done, the Village may either:

(a) Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed; or

(b) Recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

(G) For purposes of this section:

(1) LITTER includes, but is not limited to:

(a) Trash, rubbish, refuse, garbage, paper, rags, and ashes;

(b) Wood, plaster, cement, brick, or stone building rubble;

(c) Grass, leaves, and worthless vegetation;

(d) Offal and dead animals; and

(e) Any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk; and

(2) WEEDS includes, but is not limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus* sp.) (toun), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*). (*Ref. 17-563 RS Neb.*) (*Amended by Ord. Nos. 150, 1/6/92; 170, 8/7/95; 300, 9/7/05*)

§6-306 MISDEMEANORS; DISEASED OR DYING TREES.
(*Repealed by Ord. No. 174, 8/7/95*)

§6-307 MISDEMEANORS; RAISING OR PRODUCING STAGNANT WATER. It shall be unlawful for any person to build, erect, continue or keep up any dam or other obstruction in any river or stream of water in this state and thereby raise an artificial pond, or produce stagnant waters, which shall be manifestly injurious to the public health and safety. (*Ref. 28-1303 RS Neb.*)

§6-308 MISDEMEANORS; DISCHARGE OF FIREARMS.
It shall be unlawful for any person, except an officer of the law in the discharge of his official duty, to fire or discharge any gun, pistol, or other fowling piece within the Municipality; provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the Governing Body. (*Ref. 17-556 RS Neb.*)

§6-309 MISDEMEANORS; SLINGSHOTS, AIR GUNS, BB GUNS. It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the Municipality. *(Ref. 17-556 RS Neb.)*

§6-310 MISDEMEANORS; OBSTRUCTION OF PUBLIC WAYS. It shall be unlawful for any person to erect, maintain, or suffer to remain on any street or public sidewalk a stand, wagon, display, or other obstruction inconvenient to, or inconsistent with, the public use of the same. *(Ref. 17-555, 17-557, 39-703, 39-704 RS Neb.)*

§6-311 MISDEMEANORS; OBSTRUCTING WATER FLOW.
It shall be unlawful for any person to stop or obstruct the passage of water in a street gutter, culvert, water pipe, or hydrant. *(Ref. 17-555, 17-970 RS Neb.)*

§6-312 MISDEMEANORS; ABANDONED AUTOMOBILES.
(1) (a) No person shall cause any vehicle to be an abandoned vehicle as described in subsection (2) (a), (b), (c), or (d) of this section. *(Ref. 60-1907 RS Neb.)*

(b) No person other than one authorized by the Municipality or appropriate state agency shall destroy, deface, or remove any part of a vehicle which is left unattended on a highway or other public place without license plates affixed or which is abandoned. *(Ref. 60-1908 RS Neb.)*

(2) A motor vehicle is an abandoned vehicle:

(a) If left unattended, with no license plates or valid In Transit decals issued pursuant to section 60-320 RS Neb. affixed thereto, for more than six (6) hours on any public property;

(b) If left unattended for more than twenty-four (24) hours on any public property, except a portion thereof on which parking is legally permitted;

(c) If left unattended for more than forty-eight (48) hours after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

(d) If left unattended for more than seven (7) days on private property if left initially without permission of the owner, or after permission of the owner is terminated; or

(e) If left for more than thirty (30) days in the custody of a law enforcement agency after the agency has sent a letter to the last-registered owner under subsection (5) of this section.

No motor vehicle subject to forfeiture under section 28-431 RS Neb. shall be an abandoned vehicle under this subsection. (*Ref. 60-1901 RS Neb.*)

(3) If an abandoned vehicle, at the time of abandonment, has no license plates of the current year or valid In Transit decals issued pursuant to section 60-320 RS Neb. affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of two hundred fifty (\$250.00) dollars or less, title shall immediately vest in the Municipality. (*Ref. 60-1902 RS Neb.*)

(4) (a) Except for vehicles governed by subsection (3) of this section, the Municipality shall make an inquiry concerning the last-registered owner of an abandoned vehicle as follows:

1. Abandoned vehicle with license plates affixed, to the jurisdiction which issued such license plates; or

2. Abandoned vehicle with no license plates affixed, to the Department of Motor Vehicles.

(b) The Municipality shall notify the last-registered owner, if any, that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed, either:

1. It will be sold or will be offered at public auction after five (5) days from the date such notice was mailed; or

2. Title will vest in the Municipality thirty (30) days after the date such notice was mailed.

(c) If the Municipality is notified that a lien or mortgage exists, the notice described in subsection (4)(b) of this section shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.

(d) Title to an abandoned vehicle, if unclaimed, shall vest in the Municipality:

1. Five (5) days after the date the notice is mailed if the vehicle will be sold or offered at public auction under subsection (4)(b)1. of this section;

2. Thirty (30) days after the date the notice is mailed if the Municipality will retain the vehicle; or

3. If the last-registered owner cannot be ascertained, when notice of such fact is received.

(e) After title to the abandoned vehicle vests pursuant to subsection (4)(d) of this section, the Municipality may retain for use, sell, or auction the abandoned vehicle. If the Municipality has determined that the vehicle should be retained for use, the Municipality shall, at the same time that the notice, if any, is mailed, publish in a newspaper of general circulation in the jurisdiction an announcement that the Municipality intends to retain the abandoned vehicle for its use and that title will vest in the Municipality thirty (30) days after publication. (*Ref. 60-1903 RS Neb.*)

(5) (a) If the municipal law enforcement agency has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody, it shall send a certified letter to each of the last-registered owners stating that the vehicle is in the custody of the agency, that the vehicle is no longer needed for law enforcement purposes, and that after thirty (30) days the agency will dispose of the vehicle.

(b) This subsection shall not apply to motor vehicles subject to forfeiture under section 28-431 RS Neb.

(c) No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this subsection unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the law enforcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees. (*Ref. 60-1903.01 RS Neb.*)

(6) Any proceeds from the sale of an abandoned vehicle, less any expenses incurred by the Municipality, shall be held by the Municipality without interest, for the benefit of the owner or lienholders of such vehicle for a period of two (2) years. If not claimed within such two-year period, the proceeds shall be paid into the general fund of the Municipality. (*Ref. 60-1905 RS Neb.*)

(7) Neither the owner, lessee, nor occupant of the premises from which any abandoned vehicle is removed, nor the Municipality, shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the Municipality or its contractual agent or as a result of any subsequent disposition. (*Ref. 60-1906 RS Neb.*)

(8) The last-registered owner of an abandoned vehicle shall be liable to the Municipality for the costs of removal and storage of such vehicle. (*Ref. 60-1909 RS Neb.*)

(9) For purposes of this section, PUBLIC PROPERTY means any public right-of-way, street, highway, alley or park or other state, county, or municipally owned property; PRIVATE PROPERTY means any privately owned property which is not included within the definition of public property. (*Ref. 60-1901 RS Neb.*)

(10) Any person who violates the provisions of this section is guilty of an offense. (*Amended by Ord. No. 251, 10/2/00*)

§6-313 MISDEMEANORS; COLLECTION OF TAXES, REAL ESTATE, BONDED INDEBTEDNESS, DESTRUCTION OR REMOVAL OF BUILDINGS. Except in any Municipality which has adopted a building code with provisions for demolition of unsafe buildings or structures, it shall be unlawful for any person to tear down or remove any building situated on any real estate while there are any delinquent taxes unpaid thereon, or to remove any building situated within the corporate limits of any city or village which has an unpaid bonded indebtedness or which city or village is a part of or all of a school district which has such bonded indebtedness, to a point outside of such Municipality, without paying to the County Treasurer, to be deposited by said Treasurer in the bond

sinking fund of said Municipality, school district or Municipality and school district, as the case may be, an amount that bears the same proportion to the total outstanding bonded indebtedness of such Municipality, if such Municipality has such bonded indebtedness, as the assessed valuation for the preceding calendar year of the building sought to be removed bears to the total assessed valuation of all taxable property in such Municipality for the preceding calendar year or, if such school district has such outstanding bonded indebtedness, an amount which is a similar proportion of the assessed valuation of such building sought to be removed to the total outstanding bonded indebtedness of such school district, or both such amounts, as the case may be. Any person so offending shall be guilty of a Class 5 misdemeanor, and shall moreover be liable to the County, to be recovered in a civil action, for the amount of all delinquent taxes on such real estate and to such Municipality for the amount of said proportion of any outstanding bonded indebtedness of such Municipality to be recovered in the name of such Municipality and also to such school district for the amount of said proportion of any outstanding bonded indebtedness of such school district to be covered in the name of such school district; provided, such action may be brought in the name of such County, Municipality or school district for such delinquent taxes and also for such proportion or proportions, if the one bringing such action has an interest in any of such taxes or amounts, for the benefit of all those interested in the same. Such proportion of such indebtedness, in either or all of such cases is hereby made and shall be a lien upon such building so removed from such Municipality and said lien and the lien of such taxes shall follow and adhere to such building or the materials thereof wherever situated, or into whatever form the same may be converted. (*Ref. 77-1725 RS Neb.*)

Article 4. Penal Provision

§6-401 VIOLATION; PENALTY. (1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred (\$500.00) dollars. A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

(2) (a) Whenever a nuisance exists as defined in this chapter, the Municipality may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (Ref. 17-207, 17-505, 18-1720, 18-1722 RS Neb.)
(Amended by Ord. No. 254, 10/2/00)

Broadwater Code

Chapter 7
FIRE REGULATIONS

Article 1. Fires

§7-101 FIRES; PRESERVATION OF PROPERTY. The Fire Chief, or any officer in charge of the Fire Department, shall have the authority and power to cause the removal of property whenever it shall become necessary for the preservation of more valuable property, the protection of human life, or to prevent the spreading of fire to adjoining property. The Fire Chief may direct the Municipal Firefighters to remove any building, structure, or fence for the purpose of checking the progress of any fire. The Fire Chief shall have the authority to blow up, or cause to be blown up, with explosives any building or structure during the progress of a fire for the purpose of checking the progress of the same.

§7-102 FIRES; DISORDERLY SPECTATOR. It shall be unlawful for any person during the time of a fire and for a period of thirty-six (36) hours after its extinguishment to hinder, resist or refuse to obey the Municipal Fire Chief, or to act in a noisy or disorderly manner. The Fire Chief and Assistant Fire Chief shall have the power and authority during such time to arrest or command any such person to assist them in the performance of their official duties. (Ref. 28-908 RS Neb.)

§7-103 FIRES; EQUIPMENT. It shall be unlawful for any person except the Fire Chief and the members of the Municipal Fire Department to molest, destroy, handle or in any other way to interfere with the use and storage of any of the fire trucks and other apparatus belonging to the Municipality. (Ref. 28-519 RS Neb.)

§7-104 FIRES; INTERFERENCE. It shall be unlawful for any person or persons to hinder or obstruct the Municipal Fire Chief or the members of the Fire Department in the performance of their duty. (Ref. 28-908 RS Neb.)

§7-105 FIRES; OBSTRUCTION. It shall be unlawful for any person to obstruct the use of a fire hydrant, or have or place any material within fifteen (15') feet of the said hydrant. Any vehicle or material found as an obstruction may be immediately removed by the Fire Chief or any member of the Fire Department, at the risk, cost, and expense of the owner or claimant. (Ref. 39-672 RS Neb.)

§7-106 FIRES; ASSISTANCE. It shall be unlawful for any person to refuse, after the command of the Fire Chief or Assistant Fire Chief, to aid in extinguishing a fire or to assist in the removal and protection of property. (Ref. 28-908 RS Neb.)

§7-107 FIRES; DRIVING OVER HOSE. It shall be unlawful for any person, without the consent of the Fire Chief or Assistant Fire Chief, to drive any vehicle over unprotected hose of the Fire Department. (Ref. 39-682 RS Neb.)

§7-108 FIRES; TRAFFIC. Every vehicle already stationary when the fire alarm shall have been sounded must remain so for a period of five (5) minutes after the sounding of the fire alarm. No vehicle, except by the specific direction of the Fire Chief or Assistant Fire Chief, shall follow, approach or park closer than five hundred (500') feet to any fire vehicle, or to any fire hydrant to which a hose is connected. Nothing herein shall be construed to apply to vehicles carrying doctors, members of the Fire Department, or emergency vehicles. (Ref. 39-681 RS Neb.)

§7-109 FIRES; FALSE ALARM. It shall be unlawful for any person to intentionally and without good and reasonable cause raise any false alarm of fire. (Ref. 28-907, 35-520 RS Neb.)

§7-110 FIRES; PEDESTRIANS. It shall be unlawful for any pedestrian to enter or remain in any street after a fire alarm shall have sounded until the fire trucks shall have completely passed. (Ref. 28-908 RS Neb.)

Article 2. Fire Prevention

§7-201 FIRE PREVENTION; LIFE SAFETY CODE. Incorporated by reference into this Code are the standards recommended by the National Fire Protection Association, known as the Life Safety Code, Current Edition, and all subsequent amendments. This Code shall have the same force and effect as if set out verbatim herein. One (1) copy of the Life Safety Code is on file with the Municipal Clerk and shall be available for public inspection at any reasonable time. (*Ref. 18-132, 19-902, 19-922, 81-502 RS Neb.*)

§7-202 FIRE PREVENTION; FIRE PREVENTION CODE. The rules and regulations promulgated by the office of the State Fire Marshal of the State of Nebraska relating to fire prevention are incorporated by reference into this Code and made a part of this Article as though spread at large herein together with all subsequent amendments thereto. One (1) copy of the Fire Prevention Code shall be on file with the Municipal Clerk and shall be available for public inspection at any reasonable time. (*Ref. 18-132, 19-902, 19-922, 81-502 RS Neb.*)

§7-203 FIRE PREVENTION; FIRE CODE ENFORCEMENT. It shall be the duty of all Municipal officials to enforce the incorporated fire code provisions and all infractions shall be immediately brought to the attention of the Fire Chief.

§7-204 FIRE PREVENTION; OPEN BURNING BAN, WAIVER. (1) There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land.

(2) The Fire Chief of the Municipal Fire Department or his or her designee may waive an open burning ban under subsection (1) of this section for an area under his or her jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. The permit issued by the Fire Chief or his or her designee to a person desiring to conduct open burning shall be in writing, signed by the Fire Chief or his or her designee, and on a form provided by the State Fire Marshal.

(3) The Municipal Fire Chief or his or her designee may waive the open burning ban in his or her jurisdiction when conditions are acceptable to the Chief or his or her designee. Anyone burning in such jurisdiction when the open burning ban has been waived shall notify the Fire Department of his or her intention to burn.

(4) The Municipal Fire Chief may adopt and promulgate rules and regulations listing the conditions acceptable for issuing a permit to conduct open burning under subsection (2) of this section.

(5) The Municipal Fire Department may charge a fee, not to exceed ten dollars (\$10.00), for each such permit issued. This fee shall be remitted to the Governing Body for inclusion in the general funds allocated to the Fire Department. Such funds shall not reduce the tax requirements for the Fire Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under subsection (2) of this section in the course of such state's or political subdivision's official duties. *(Ref. 81-520.01 RS Neb.) (Amended by Ord. No. 175, 8/7/95)*

Article 3. Penal Provision

§7-301 VIOLATION; PENALTY. (1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred (\$500.00) dollars. A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

(2) (a) Whenever a nuisance exists as defined in this chapter, the Municipality may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (*Ref. 17-207, 17-505, 18-1720, 18-1722 RS Neb.*) (*Amended by Ord. No. 254, 10/2/00*)

Broadwater Code

Chapter 8

PUBLIC WAYS AND PROPERTY

Article 1. Municipal Property

§8-101 **DEFINITIONS.** The following definitions shall be applied throughout this Chapter. When no definition is specified, the normal dictionary usage of the word shall apply.

SIDEWALK SPACE. The term "sidewalk space," as used herein, shall mean that portion of a street between curb lines and adjacent property lines.

§8-102 **MUNICIPAL PROPERTY; MAINTENANCE AND CONTROL.** The Governing Body shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public square, and commons within the Municipality, and shall cause the same to be kept open and in repair, and free from nuisances. (*Ref. 17-567 RS Neb.*)

§8-103 **MUNICIPAL PROPERTY; TREES.** No person, or persons, shall plant, or allow to grow, any tree within the sidewalk space without first making a written, or verbal, application to, and receiving a written permit from the Governing Body. Any tree planted within the sidewalk space after the adoption date of this section shall be deemed to be unlawfully planted and growing and shall, at the discretion of the Governing Body, be deemed to be a nuisance. When any such tree is declared to be a nuisance, the Governing Body shall order, with proper notice, the tree removed at the expense of the owner of the property adjacent to the sidewalk space upon which the tree has been unlawfully planted. If the property owner fails, or neglects, to remove, or cause to be removed, the said tree, the Governing Body shall order the same removed and assess the expense of such removal against the property adjacent to the sidewalk space wherein the tree is planted and growing. In the event the property owner is a non-resident of the county in which the property lies, the Municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address

listed on the current tax rolls at the time such required notice was first published. No fee shall be charged for said permit, and nothing in this section shall be construed to apply to any existing trees now growing within the sidewalk space. (*Ref. 17-555, 17-557, 17-557.01, 18-1720 RS Neb.*)

§8-104 MUNICIPAL PROPERTY; OBSTRUCTIONS.

Trees and shrubs, growing upon, or near, the lot line, or upon public ground and interfering with the use, or construction of any public improvements shall be deemed an obstruction under this Article. Said roots may be removed by the Municipality at the expense of the owner of the property upon which the tree is located should the owner fail, or neglect, after notice, to do so. It shall be unlawful for any person, persons, firm, or corporation to obstruct, or encumber, by fences, gates, buildings, structures, or otherwise, any of the streets, alleys, or sidewalks. The public ways and property shall be considered to be obstructed when the owner or occupant of the adjacent property shall permit or suffer to remain on any premise owned or controlled by him any hedge, shrubbery, bush, or similar growth within two (2') feet adjacent to the lot line whether there is a sidewalk abutting or adjoining such premise or not. It shall be the duty of owners and occupants to at all times keep trimmed and pruned all such similar growth. Whenever any such growth is allowed to grow within two (2') feet of the lot line contrary to the provisions of this Article, the Governing Body may pass a resolution ordering the owner or occupant to remove such obstructions with three (3) days after having been served with a copy of said resolution by the Municipality stating that the Municipality will do so and will charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided or shall collect the same by civil suit brought in the name of the Municipality against the said owner or occupant. It shall be the duty of an owner or occupant engaged in construction of any building or improvement upon or near the public ways and property to have all excavations or exposures of any kind protected and guarded by suitable guards or barricades by day and by warning lights at night. In the event of failure, neglect, or refusal to comply with the provisions of this Article, it shall be the duty of the Municipality to stop all work upon said buildings and improvements until suitable

guards are erected and kept in the manner aforesaid. Trees and shrubs growing upon the lot line partially on public ground and partially upon the abutting property, or wholly upon the abutting property, but so close to the lot line as to interfere with the making of any public improvement or so that the roots thereof interfere with any utility wires or pipe shall be deemed an obstruction and such trees, shrubs, and roots may be removed by the Municipality pursuant to the procedure prescribed above. In the event the property owner is a nonresident of the county in which the property lies, the Municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. (*Ref. 17-557.01 RS Neb.*)

§8-105 MUNICIPAL PROPERTY; PERMITTED OBSTRUCTIONS. Persons engaged in the erection, construction, reconstruction, wrecking, or repairing of any building, or the construction, or repair, of a sidewalk along any street, may occupy the public street space with such building material and equipment as long as is necessary if such persons shall make application to and receive a permit in writing from the Municipal official in charge of Municipal streets to do so; provided, no permit for the occupancy of the sidewalk space, and more than one-third (1/3) of the roadway of the public space adjacent to the real estate on which said building is to be constructed, erected, reconstructed, wrecked, or repaired shall be granted; and provided further, a suitable passageway for pedestrians shall be maintained within the public space included in the permit which shall be protected and lighted in the manner required by the official issuing the permit.

§8-106 MUNICIPAL PROPERTY; SALE AND CONVEYANCE OF REAL PROPERTY. (A) Except as provided in division (G) of this section, the power of the Village to convey any

real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution, directing the sale at public auction or by sealed bid of such property and the manner and terms thereof, except that such property shall not be sold at public auction or by sealed bid when:

(1) Such property is being sold in compliance with the requirements of federal or state grants or programs;

(2) Such property is being conveyed to another public agency; or

(3) Such property consists of streets and alleys.

(B) The Board of Trustees may establish a minimum price for real property at which bidding shall begin or shall serve as a minimum for a sealed bid.

(C) After the passage of the resolution directing the sale, notice of all proposed sales of property described in division (A) of this section and the terms thereof shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in the Village.

(D) (1) If within thirty (30) days after the third publication of the notice a remonstrance against such sale is signed by registered voters of the Village equal in number to thirty percent (30%) of the registered voters of the Village voting at the last regular municipal election held therein and is filed with the Board of Trustees, such property shall not then, nor within one (1) year thereafter, be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the 30-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day.

(2) Upon the receipt of the remonstrance, the Board of Trustees, with the aid and assistance of the Election Commissioner or County Clerk, shall determine the validity and sufficiency of signatures on the remonstrance. The Board of Trustees shall deliver the remonstrance to the Election Commissioner or County Clerk by

hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested.

(3) Upon receipt of the remonstrance, the Election Commissioner or County Clerk shall issue to the Board of Trustees a written receipt that the remonstrance is in the custody of the Election Commissioner or County Clerk. The Election Commissioner or County Clerk shall compare the signature of each person signing the remonstrance with the voter registration records to determine if each signer was a registered voter on or before the date on which the remonstrance was filed with the Board of Trustees. The Election Commissioner or County Clerk shall also compare the signer's printed name, street and number or voting precinct, and village or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the Election Commissioner or County Clerk determines that the printed name, street and number or voting precinct, and village or post office address matches the registration records and that the registration was received on or before the date on which the remonstrance was filed with the Board of Trustees. The determinations of the Election Commissioner or County Clerk may be rebutted by any credible evidence which the Board of Trustees finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the remonstrance, the sufficiency of the remonstrance, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the remonstrance process.

(4) Upon completion of the comparison of names and addresses with the voter registration records, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the non-registration of the signer, the Election Commissioner or County Clerk shall set forth the reason for the invalidity of the signature. If the Election

Commissioner or County Clerk determines that a signer has affixed his or her signature more than once to the remonstrance and that only one (1) person is registered by that name, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature.

(5) The Election Commissioner or County Clerk shall certify to the Board of Trustees the number of valid signatures necessary to constitute a valid remonstrance. The Election Commissioner or County Clerk shall deliver the remonstrance and the certifications to the Board of Trustees within forty (40) days after the receipt of the remonstrance from the Board of Trustees. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Not more than twenty (20) signatures on one (1) signature page shall be counted.

(6) The Board of Trustees shall, within thirty (30) days after the receipt of the remonstrance and certifications from the Election Commissioner or County Clerk, hold a public hearing to review the remonstrance and certifications and receive testimony regarding them. The Board of Trustees shall, following the hearing, vote on whether or not the remonstrance is valid and shall uphold the remonstrance if sufficient valid signatures have been received.

(E) Real estate now owned or hereafter owned by the Village may be conveyed without consideration to the State of Nebraska for state armory sites or, if acquired for state armory sites, shall be conveyed strictly in accordance with the conditions of sections 18-1001 to 18-1006 RS Neb.

(F) Following (1) passage of the resolution directing a sale, (2) publishing of the notice of the proposed sale, and (3) passing of the 30-day right-of-remonstrance period, the property shall then be sold. Such sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale. (*Ref. 17-503 RS Neb.*)

(G) Divisions (A) through (F) of this section shall not apply to the sale of real property if the authorizing resolution directs the sale of real property, the total fair market value of which is less than

\$5,000. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the Village for a period of not less than seven (7) days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required. (Ref. 17-503.01 RS Neb.) (Amended by Ord. Nos. 189, 3/4/96; 233, 2/1/99; 287, 7/5/04)

§8-106.01 MUNICIPAL PROPERTY; SALE AND CONVEYANCE OF PERSONAL PROPERTY. The power of the Village to convey any personal property owned by it shall be exercised by resolution directing the sale and the manner and terms thereof. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three (3) prominent places within the village for a period of not less than seven (7) days prior to the sale of the property. If the fair market value of the property is greater than \$5000, notice of the sale shall also be published once in a legal newspaper published in or of general circulation in the village at least seven (7) days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. (Ref. 17-503.02 RS Neb.) (Ord. No. 287, 7/5/04)

§8-107 MUNICIPAL PROPERTY; WEEDS. It is hereby the duty of the Municipality to view and inspect the sidewalk space within the corporate limits for growing weeds during the growing season, and if rank and noxious weeds are found growing thereon, they shall notify the owner or occupant thereof, to cut down such weeds as close to the ground as can be practicably done and keep the weeds cut thereon in like manner during the growing season for weeds; provided, any weeds growing in excess of twelve inches (12") on any sidewalk space shall be considered a violation of this section. In the event that the owner of the lot or parcel of land abutting said sidewalk space within the Municipality is a nonresident of the Municipality or cannot be

found therein the notice may be given to any person having the care, custody, or control of such lot or parcel of land. In the event that there can be found no one within the Municipality to whom notice can be given, it shall be the duty of the Municipality to post a copy of the notice on the premise and then to cut or cause the weeds thereon to be cut as therein provided and report the cost thereof in writing to the Governing Body. The cost shall then be audited and paid by the Municipality and the amount thereof shall be assessed against the lot or parcel of land as a special tax thereon and shall be collected as are other taxes of the Municipality or may be recovered by civil suit brought by the Municipality against the owner of the parcel of land. In the event the property owner is a nonresident of the county in which the property lies, the Municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

§8-108 MUNICIPAL PROPERTY; OVERHANGING BRANCHES. The owner or occupant of any lot, piece, or parcel of ground abutting or adjacent to any street or sidewalk over which there extends the branches of trees shall at all times keep the branches or limbs thereof trimmed to the height of at least eight feet (8') above the surface of said walk and at least fourteen feet (14') above the surface of said street. Whenever the limbs or branches of any tree or trees extend over streets or sidewalks contrary to the provisions herein so as to interfere with the lighting of the street from street lights, or with the convenience of the public using said street or sidewalk, the Governing Body at any regular or special meeting may pass a resolution ordering the owner or occupant to cut or remove said obstructions within five (5) days after having received a copy thereof from the Municipality stating that the Municipality will remove said branches and charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided, if said

resolution is not complied with. In the event the property owner is a nonresident of the county in which the property lies, the Municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. (*Ref. 17-557.01 RS Neb.*)

§8-109 MUNICIPAL PROPERTY; ACQUISITION OF PROPERTY; CONSTRUCTION; ELECTIONS, WHEN REQUIRED. (1) The Municipality is authorized and empowered to (a) purchase, (b) accept by gift or devise, (c) purchase real estate upon which to erect, and (d) erect a building or buildings for an auditorium, fire station, Municipal building, or community house for housing Municipal enterprises and social and recreation purposes, and other public buildings, and maintain, manage, and operate the same for the benefit of the inhabitants of the Municipality.

(2) Except as provided in subsection (3) of this section, before any such purchase can be made or building erected, the question shall be submitted to the electors of the Municipality at a general Municipal election or at an election duly called for that purpose, or as set forth in section 17-954 RS Neb., and be adopted by a majority of the electors voting on such question.

(3) If the funds to be used to finance the purchase or construction of a building pursuant to this section are available other than through a bond issue, then either:

(a) Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the Municipality and no election shall be required to approve the purchase or construction unless within thirty (30) days after the publication of the notice, a remonstrance against the purchase or construction is signed by registered voters of the Municipality equal in number to fifteen percent (15%) of the registered voters of the Municipality voting at the last regular Municipal election held therein and is filed with the

Governing Body. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be considered timely if filed or postmarked on or before the next business day. If a remonstrance with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the Municipality at a general Municipal election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then, nor within one (1) year following the election, be purchased or constructed; or

(b) The Governing Body may proceed without providing the notice and right of remonstrance required in subdivision (a) of this subsection if the property can be purchased below the fair market value as determined by an appraisal, there is a willing seller, and the purchase price is less than twenty-five thousand dollars (\$25,000.00). The purchase shall be approved by the Governing Body after notice and public hearing as provided in section 18-1755 RS Neb. (*Ref. 17-953, 17-953.01 RS Neb.*) (*Amended by Ord. No. 190, 3/4/96*)

§8-110 MUNICIPAL PROPERTY; ACQUISITION OF REAL PROPERTY. When acquiring an interest in real property by purchase or eminent domain, the Municipality shall do so only after the Governing Body has authorized the acquisition by action taken in a public meeting after notice and public hearing. (*Ref. 18-1755 RS Neb.*) (*Ord. No. 176, 8/7/95*)

§8-111 MUNICIPAL PROPERTY; ACQUISITION OF PROPERTY; APPRAISAL. The Municipality shall not purchase, lease-purchase, or acquire for consideration real property having an estimated value of one hundred thousand dollars (\$100,000.00) or more unless an appraisal of such property has been performed by a certified real estate appraiser. (*Ref. 13-403 RS Neb.*) (*Ord. No. 177, 8/7/95*)

§8-112 MUNICIPAL PROPERTY; PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING; REQUIREMENTS. (A) Except as provided in division (B) of this section,

the Municipality shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer.

(B) Division (A) of this section shall not apply to the following activities:

(1) Any public works project with contemplated expenditures for the completed project that do not exceed \$86,000;

(2) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(3) Performance by the Municipality of professional services for itself if the Municipality appoints a Municipal Engineer or employs a full-time person licensed under the Engineers and Architects Regulation Act who is in responsible charge of architectural or engineering work;

(4) The practice of any other certified trade or legally recognized profession;

(5) Earthmoving and related work associated with soil and water conservation practices performed on any land owned by the Municipality that is not subject to a permit from the Department of Natural Resources;

(6) The work of employees and agents of the Municipality performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land use regulations and their customary duties in utility and public works construction, operation, and maintenance;

(7) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;

(8) The construction of water wells as defined in section 46-1212 RS Neb., the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by the Municipality to be designed or supervised by an engineer or unless legal requirements are imposed upon the municipality as a part of a public water supply; and

(9) Any other activities described in sections 81-3449 to 81-3453 RS Neb. (*Ref. 81-3423, 81-3445, 81-3449, and 81-3453 RS Neb.*) (*Ord. No. 252, 10/2/00*) (*Amended by Ord. No. 293, 9/7/05*)

Article 2. Sidewalks

§8-201 SIDEWALKS; KEPT CLEAN. It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud, or other substance to remain upon said sidewalk. (Ref. 17-557 RS Neb.)

§8-202 SIDEWALKS; BENEATH. No person shall be allowed to keep or use the space beneath the sidewalk lying between lot line and curb line unless a permit therefor shall have been obtained from the Governing Body. Before any permit shall be granted, the applicant for said permit shall submit plans and specifications of any present or proposed construction to the Municipal Engineer. Should such plans or specifications be disapproved by him, no permit shall be granted therefor. All permits hereafter granted shall continue only upon the condition that the party receiving the same shall build, maintain, and keep in repair a sidewalk over such space used or constructed to be used and pay all damages that may be sustained by any person by reason of such use or by reason of said sidewalk being defective or in a dangerous condition. As a condition precedent to the issuance or continuance of any permit for the use of any space underneath the Municipal sidewalks as herein contemplated, the Governing Body may require applicant to furnish a bond to the Municipality as obligee for the benefit of any person or persons who may suffer any damage or damages by reason of such use. The bond shall be in such sum as the Governing Body, in its discretion, may designate.

§8-203 SIDEWALKS; MAINTENANCE. Every owner of any lot, lots, or piece of land within the corporate limits shall at all times keep and maintain the sidewalk along and contiguous to said lot, lots, or pieces of land, as the case may be, in good and proper repair, and in a condition reasonably safe for travel for all travelers thereon. In the event that the owner or owners of any lot, lots, or lands,

abutting on any street, avenue, or part thereof shall fail to construct or repair any sidewalk in front of his, her, or their lot, lots, or lands, within the time and in the manner as directed and required herein after having received due notice to do so, they shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk, and the Governing Body shall have power to cause any such sidewalks to be constructed or repaired and assess the costs thereof against such property. In the event the property owner is a non-resident of the county in which the property lies, the Municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. (Ref. 17-557.01 RS Neb.)

§8-204 SIDEWALKS; REPAIR. The Municipality may require sidewalks of the Municipality to be repaired. Notice to the owners of property upon which such sidewalks in disrepair are located shall require within forty-eight (48) hours from issuance of notice said owners to make arrangements to have the sidewalk repaired. Said repairs shall be completed within twenty-one (21) days after issuance of said notice. No special assessment shall be levied against the property unless said owner shall neglect or refuse to repair within the time prescribed and in the event that such owner fails to repair, the Municipality shall cause the repairs to be made and assess the property owner the expense of such repairs. In the event the property owner is a non-resident of the county in which the property lies, the Municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

§ 8-205 SIDEWALKS; CONSTRUCTION BY OWNER.

Any person desiring to construct, or cause to be constructed, any sidewalk shall do so only as herein provided. It shall be unlawful for any person to construct any sidewalk without first having obtained a permit.

Said owner shall make application in writing for a permit and file such application in the office of the Municipal Clerk. The permit shall give a description of the lot, or piece of land along which the sidewalk is to be constructed. The Municipality shall issue the desired permit unless good cause shall appear why said permit should be denied; provided, if it is desired to construct the sidewalk at any other than the regularly prescribed location, grade or elevation, the Municipality shall submit the application to the Governing Body who shall determine whether the permit should be granted or denied. It shall be unlawful for any person to construct, or cause to be constructed said sidewalk at any other location, grade or elevation than so designated by the Municipality. All sidewalks shall be built and constructed on the established grade, or elevation, and if there is no established grade, then on the grade or elevation indicated by the Municipality.

Broadwater Code

Article 3. Streets

§ 8-301 STREETS; NAMES AND NUMBERS. The Governing Body may at any time, by resolution, rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along such streets shall retain such numbers as the Governing Body may require. It shall be the duty of the Municipal official in charge of streets, upon the erection of any new building or buildings to assign the proper numbers to said building or buildings and give notice to the owner or owners and occupant or occupants of the same.

§ 8-302 STREETS AND ALLEYS; OPENING, WIDENING, IMPROVING, OR VACATING.

(A) The Municipality shall have power to open, widen, or otherwise improve or vacate any street, avenue, alley, or lane within the limits of the Municipality and also to create, open, and improve any new street, avenue, alley, or lane. All damages sustained by the citizens of the Municipality, or by the owners of the property therein, shall be ascertained in such manner as shall be provided by ordinance. Whenever any street or alley is vacated, the same shall revert to the owners of the abutting real estate, one-half on each side thereof and become a part of such property. When a portion of a street, avenue, alley, or lane is vacated only on one side of the center thereof, the title to such land shall vest in the owner of the abutting property and become a part of such property. When the Municipality vacates all or any portion of a street, avenue, alley, or lane, the Municipality shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance with the Register of Deeds for the county in which the vacated property is located to be indexed against all affected lots. (*Ref. 17-558 RS Neb.*)

(B) The Municipality shall have power to create, open, widen, or extend any street, avenue, alley, off-street parking area, or other public way, or annul, vacate, or discontinue the same. (*Ref. 17-559 RS Neb.*) (*Amended by Ord. No. 265, 10/7/02*)

§8-302.01 STREETS; VACATING PUBLIC WAYS.

(A) SPECIAL DAMAGES shall mean only those losses or damages or injuries which a property owner suffers that are peculiar or special or unique to his or her property and which result from the Board of Trustees vacating a street, avenue, alley, lane, or similar public way. SPECIAL DAMAGES shall not mean those losses or damages or injuries that a property owner suffers that are in common with the rest of the Village or public at large, even though those losses or damages or injuries suffered by the property owner are greater in degree than the rest of the Village or public at large.

(B) Whenever the Board of Trustees decides that it would be in the best interests of the Village to vacate a street, avenue, alley, lane, or similar public way, the Board of Trustees shall comply with the following procedure:

(1) *Notice.* Notice shall be given to all abutting property owners either by first class mail to their last known address or if there is no known address then by publishing the notice in a newspaper that is of general circulation in the Village. The content of the notice shall advise the abutting property owners that the Board of Trustees will consider vacating such street, avenue, alley, lane, or similar public way at its next regular meeting or, if a special meeting is scheduled for such discussion, then the date, time, and place of such meeting.

(2) *Consent; waiver.* The Board of Trustees may have all the abutting property owners sign a form stating that they consent to the action being taken by the Board of Trustees and waive their right of access. The signing of such form shall have no effect on claims for special damages by the abutting property owners but shall create the presumption that the Board of Trustees' action was proper. If the abutting property owners do not sign the consent/waiver form, the Board of Trustees may still proceed with vacating the street, avenue, alley, lane, or similar public way under the authority granted by sections 17-558 and 17-559 RS Neb.

(3) *Ordinance.* The Board of Trustees shall pass an ordinance that includes essentially the following provisions:

(a) A declaration that the action is expedient for the public good or in the best interests of the Village.

(b) A statement that the Village will have an easement for maintaining all utilities.

(c) A method or procedure for ascertaining special damages to abutting property owners.

(C) The Chairperson shall appoint three (3) or five (5) or seven (7) disinterested residents of the Village to a special commission to ascertain the amount of special damages that the abutting property owners are entitled to receive and which resulted from the Board of Trustees vacating the street, avenue, alley, lane, or similar public way. The appointees of the special commission shall be approved by the Board of Trustees. Only special damages shall be awarded to the abutting property owners.

(D) In determining the amount of compensation to award the abutting property owners as special damages, the commission shall use the following rule:

An abutting property owner is entitled to recover as compensation the difference between the value of the property immediately before and immediately after the vacating of such street, avenue, alley, lane, or similar public way. If no difference in value exists, the abutting property owner is entitled to no compensation.

(Ord. No. 266, 10/7/02)

§ 8-303 STREETS; IMPROVEMENT OF STREETS ON CORPORATE LIMITS. The Chairman and Board of Trustees shall have the power to improve any street or part thereof which divides the Municipal corporate area and the area adjoining the Municipality. When creating an improvement district including land adjacent to the Municipality, the Board of Trustees shall have the power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefitted thereby. *(Ref. 17-509 RS Neb.)*

§ 8-304 STREETS; DRIVEWAY APPROACHES. The Governing Body may require the owner of property served by a driveway approach constructed or maintained upon the street right-of-way to repair or replace any such driveway approach which is cracked, broken, or otherwise deteriorated to the extent that it is causing or is likely to cause damage to or interfere with any street structure including pavement or sidewalks.

The Municipal 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 driveway approach. If within thirty (30) days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the Governing Body may cause such work to be done and assess the cost upon the property served by such approach. (*Ref. 18-1748 RS Neb.*)

Article 4. Curb and Gutter

§ 8-401 CURB AND GUTTER; CUTTING CURB. It shall be unlawful for any person to cut into any paving, curb, or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained a written permit from the Utilities Superintendent therefor. Before any person shall obtain a permit, he shall inform the Utilities Superintendent of the place where such cutting is to be done, and it shall be the Utilities Superintendent's duty to inspect the place of entry into the paving, sidewalk, or curb, before the same is cut. When cutting into any paving, it shall be the duty of the party to cut the paving with a saw, making a straight, clean cut and to follow any other rules and regulations as may be prescribed by the Governing Body or the Municipal Engineer. When the applicant is ready to close the opening made, he shall inform the Utilities Superintendent, who shall supervise and inspect the materials used and the work done in closing the opening. It shall be discretionary with the Governing Body to order the Utilities Superintendent to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained such permit. The Utilities Superintendent may consent to the work of cutting and closing the paving to be done by the party holding such permit. Before any permit is issued by the Utilities Superintendent, the applicant for such permit shall deposit with the Municipal Treasurer a sum set by resolution of the Governing Body for all paving, curb, or sidewalk to be cut. Such sum shall be set on a per square foot cost of construction basis. The deposit shall be retained by the Municipality for the purpose of replacing the paving, curb, or sidewalk, in the event the work is done by the Municipality. In the event the Municipality elects to require the applicant to replace the paving, curb, or sidewalk, the deposit shall be retained by the Municipality until the work is completed to the satisfaction of the Utilities Superintendent. In addition to making the deposit above set forth, the applicant shall,

before any permit is issued, execute a bond to the Municipality with a good and sufficient surety or sureties to be approved by the Governing Body in a sum set by resolution of the Governing Body.
(Ref. 17-567 RS Neb.)

Article 5. Penal Provision

§8-501 VIOLATION; PENALTY. (1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred (\$500.00) dollars. A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

(2) (a) Whenever a nuisance exists as defined in this chapter, the Municipality may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (*Ref. 17-207, 17-505, 18-1720, 18-1722 RS Neb.*) (*Amended by Ord. No. 254, 10/2/00*)

Broadwater Code

Chapter 9
BUILDING REGULATIONS

Article 1. Building Inspector

§9-101 BUILDING INSPECTOR; POWER AND AUTHORITY. The Building Inspector shall be the Municipal official who shall have the duty of enforcing all building and housing regulations as herein prescribed. He shall inspect all buildings repaired, altered, built, or moved in the Municipality as often as necessary to insure compliance with all Municipal ordinances. He shall have the power and authority to order at the direction of the Governing Body, all work stopped on any construction, alteration, or relocation which violates any provisions prescribed herein. He shall at the direction of the Governing Body, issue permission to continue any construction, alteration, or relocation when the Governing Body is satisfied that no provision will be violated.

§9-102 BUILDING INSPECTOR; RIGHT OF ENTRY. It shall be unlawful for any person to refuse to allow the Building Inspector entry into any building or structure where the work of construction, alteration, repair, or relocation is taking place for the purpose of making official inspections at any reasonable hour.

Article 2. Building Moving

§9-201 BUILDING MOVING; REGULATIONS. It shall be unlawful for any person, firm, or corporation to move any building or structure within the Municipality without a written permit to do so. Application may be made to the Municipal Clerk, and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used, and such other information as the Governing Body may require. The application shall be accompanied by a certificate issued by the County Treasurer to the effect that all the provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the said building is presently located. The Municipal Clerk shall refer the said application to the Municipal Police for approval of the proposed route over which the said building is to be moved. Upon approval of the Governing Body, the Municipal Clerk shall then issue the said permit; Provided, that a good and sufficient corporate surety bond, check, or cash in an amount set by motion of the Governing Body and conditioned upon moving said building without doing damage to any private or Municipal property is filed with the Municipal Clerk prior to the granting of any permit. No moving permit shall be required to move a building that is ten (10') feet wide, or less, and twenty (20') feet long, or less, and when in a position to move, fifteen (15') feet high, or less. In the event it will be necessary for any licensed building mover to interfere with the telephone or telegraph poles and wires, or a gas line, the company or companies owning, using, or operating the said poles, wires or line shall upon proper notice of at least twenty-four (24) hours, be present and assist by disconnecting the said poles, wires, or line relative to the building moving operation. All expense of the said disconnection, removal, or related work shall be paid in advance by the licensee unless such disconnection or work is furnished on different terms as provided in the said company's franchise. Whenever the moving of any building necessitates interference with a water main, sewer main, pipes,

or wire belonging to the Municipality, notice in writing of the time and route of the said building moving operation shall be given to the various Municipal officials in charge of the Municipal utility departments who shall proceed in behalf of the Municipality and at the expense of the mover to make such disconnections and do such work as is necessary. (Ref. 39-6,177 to 39-6,180, 39-6,184, 77-1725 RS Neb.)

§9-202 BUILDING MOVING; DEPOSIT. At such time as the building moving has been completed, the Municipal Police shall inspect the premises and report to the Municipal Clerk as to the extent of damages, if any, resulting from the said relocation and whether any Municipal laws have been violated during the said operation. Upon a satisfactory report from the Municipal Police, the Municipal Clerk shall return the corporate surety bond, cash, or check deposited by the applicant. In the event the basement, foundation, or portion thereof is not properly filled, covered, or in a clean and sanitary condition, the Governing Body may apply the money deposited for the purpose of defraying the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit set by resolution of the Governing Body, as required herein, the Governing Body may recover such excess expense by civil suit or otherwise as prescribed by law.

Article 3. Unsafe Buildings

§9-301 UNSAFE BUILDINGS; DEFINITION. The term "unsafe building" as used in this Article is hereby defined to mean and include any building, shed, fence, or other man-made structure (a) which is dangerous to the public health because of its condition, and which may cause or aid in the spread of disease or injury to the health of the occupants of it or neighboring structures; (b) which because of faulty construction, age, lack of proper repair, or any other cause is especially liable to fire and constitutes or creates a fire hazard; (c) which by reason of faulty construction or any other cause is liable to cause injury or damage by the collapse or fall of all or any part of such structure. Any such unsafe building in the Municipality is hereby declared to be a nuisance.

§9-302 UNSAFE BUILDINGS; PROHIBITION. It shall be unlawful to maintain or permit the existence of any unsafe building in the Municipality and it shall be unlawful for the owner, occupant, or person in custody of any dangerous building to permit the same to remain in an unsafe condition or to occupy such building or permit it to be occupied while it is in an unsafe condition.

§9-303 UNSAFE BUILDINGS; DETERMINATION AND NOTICE. Whenever the building inspector, the fire official, the health official, or the Governing Body shall be of the opinion that any building or structure in the Municipality is an unsafe building, he shall file a written statement to this effect with the Municipal Clerk. The Clerk shall thereupon cause the property to be posted accordingly, and shall file a copy of such determination in the office of the County Register of Deeds, and shall serve written notice upon the owner thereof, and upon the occupant thereof, if any, by certified mail or by personal service. Such notice shall state that the building has been declared to be in an unsafe condition; and that such dangerous condition must be removed or remedied by repairing or altering the building or by demolishing it; and that the condi-

tion must be remedied within sixty (60) days from the date of receipt. Such notice may be in the following terms:

"To _____ (owner-occupant of premises) of the premise known and described as _____.

"You are hereby notified that _____ (describe building) on the premises above mentioned has been determined to be an unsafe building and a nuisance after inspection by _____. The causes for this decision are _____ (here insert the facts as to the dangerous condition).

"You must remedy this condition or demolish the building within sixty (60) days from the date of receipt of this notice or the Municipality will proceed to do so. Appeal of this determination may be made to the Governing Body, acting as the Board of Appeals, by filing with the Municipal Clerk within ten (10) days from the date of receipt of this notice a request for a hearing."

If the person receiving the notice has not complied therewith or taken an appeal from the determination of the officer or employee finding that a dangerous building exists within ten (10) days from the time when this notice is served upon such person by personal service or certified mail, the Building Inspector may, upon orders of the Governing Body, proceed to remedy the condition or demolish the unsafe building.

§9-304 UNSAFE BUILDINGS; HEARING AND APPEAL.

Upon receiving the notice to repair or demolish the building, the owner of the building, within the time stipulated, may in writing to the Municipal Clerk request a hearing before the Governing Body, sitting as the Board of Appeals, to present reasons why the building should not be repaired or demolished. The Governing Body shall grant such hearing within ten (10) days from the date of receiving the request. A written notice of the Governing Body's decision following the hearing shall be sent to the property owner by certified mail. If the Governing Body rejects the appeal, the owner shall have five (5) days from the sending of the decision to begin repair or demolition and removal. If after the five (5) day period the owner has not

begun work, the Governing Body shall proceed to cause such work to be done; Provided, the property owner may appeal such decision to the appropriate court for adjudication during which proceedings the decision of the Governing Body shall be stayed. Where the Municipality has not adopted a building code, the statutes of Nebraska relating to bonded indebtedness and collection of delinquent taxes shall apply.

§9-305 UNSAFE BUILDINGS; EMERGENCY. Where any unsafe building or structure poses an immediate danger to the health, safety, or general welfare of any person or persons, and the owner fails to remedy the situation in a reasonable time after notice by the Building Inspector to do so, the Municipality may summarily repair or demolish and remove such building or structure.

§9-306 UNSAFE BUILDINGS; SPECIAL ASSESSMENTS. If any owner of any building or structure fails, neglects, or refuses to comply with notice by or on behalf of the Municipality to repair, rehabilitate, or demolish and remove a building or structure which is unsafe and a public nuisance, the Municipality may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the Governing Body. The Governing Body may (1) levy the cost as a special assessment against the lot or real estate upon which the building or structure is located. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments; or (2) collect the cost from the owner of the building or structure and enforce the collection by civil action in any court of competent jurisdiction. (Ref. 18-1720, 18-1722, 18-1722.01, 77-1725 RS Neb.) (Amended by Ord. No. 148, 7/1/91)

Article 4. Penal Provisions

§9-401 VIOLATION; PENALTY. (1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred (\$500.00) dollars. A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

(2) (a) Whenever a nuisance exists as defined in this chapter, the Municipality may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (Ref. 17-207, 17-505, 18-1720, 18-1722 RS Neb.) (Amended by Ord. No. 254, 10/2/00)

§9-402 ABATEMENT OF NUISANCE. (Repealed by Ord. No. 254, 10/2/00)

Broadwater Code

BUSINESS REGULATIONS

Article 1. Alcoholic Beverages

§10-101 ALCOHOLIC BEVERAGES; DEFINITIONS. All words and phrases herein used are to have the definitions applied thereto, as defined in the Liquor Control Act of the State of Nebraska. (*Ref. 53-103 RS Neb.*)

§10-102 ALCOHOLIC BEVERAGES; LICENSE REQUIRED.
It shall be unlawful for any person to manufacture for sale, sell, keep for sale, or to barter any alcoholic liquors within the Municipality unless said person shall have in full force and effect a license as provided by the Nebraska Liquor Control Act. (*Ref. 53-102 RS Neb.*)

§10-103 ALCOHOLIC BEVERAGES; LOCATION. It shall be unlawful for any person or persons to own, maintain, manage, or hold open to the public any establishment for the purpose of selling at retail any alcoholic liquor within one hundred and fifty (150') feet of any church, school, hospital, or home for aged or indigent persons or veterans, their wives or children; Provided, this prohibition shall not apply to any location within such distance when the said establishment has been licensed by the Nebraska Liquor Control Commission at least two (2) years, and to hotels offering restaurant service, regularly organized clubs, or to restaurants where the selling of alcoholic liquors is not the principal business carried on, if the said hotel, club, or restaurant were licensed and in operation prior to May 24, 1935. No alcoholic liquor, other than beer, shall be sold for consumption on the premise within three hundred (300') feet from the campus of any college within the Municipality. (*Ref. 53-177 RS Neb.*)

§10-104 ALCOHOLIC BEVERAGES; DWELLINGS. Except in the case of hotels and clubs no alcoholic liquor shall be sold at retail upon any premise which has any access which leads

from such premise to any other portion of the same building used for dwelling or lodging purposes, and which is permitted to be used by the public. Nothing herein shall prevent any connection with such premise, and such other portion of the building which is used only by the licensee, his family, or personal guests. (*Ref. 53-178 RS Neb.*)

§10-105 ALCOHOLIC BEVERAGES; LICENSE DISPLAYED.

Every licensee under the Nebraska Liquor Control Act shall cause his license to be framed and hung in plain public view in a conspicuous place on the licensed premise. (*Ref. 53-148 RS Neb.*)

§10-106 ALCOHOLIC BEVERAGES; LICENSEE REQUIREMENTS.

It shall be unlawful for any person or persons to own an establishment that sells at retail any alcoholic beverages unless said person is a resident of the county in which the premise is located; a person of good character and reputation; a citizen of the United States; a person who has never been convicted of a felony or any Class I misdemeanor pursuant to Chapter 28, Article 3, 4, 7, 8, 10, 11, or 12 Reissue Revised Statutes of Nebraska, 1943, or any similar offense under a prior criminal statute or in another state; a person who has never had a liquor license revoked for cause; a person whose premises, for which a license is sought, meets standards for fire safety as established by the State Fire Marshal; Provided, the beneficial interest requirement in this Section shall not apply to a person applying for an additional license for use in connection with the operation of a hotel containing at least twenty-five (25) sleeping rooms, or where the request is limited to on premises sale of beer only in a restaurant. (*Ref. 53-124.03, 53-125 RS Neb.*)

§10-107 ALCOHOLIC BEVERAGES; LICENSE RENEWAL; MUNICIPAL POWERS AND DUTIES.

(A) A retail license issued by the Nebraska Liquor Control Commission and outstanding may be automatically renewed by the commission in the absence of a written request by the Governing Body to require the licensee to submit an application for renewal. Any licensed retail premises

located in an area which is annexed to the municipality shall file a formal application for a license, and while such application is pending, the licensee may continue all license privileges until the original license expires or is canceled or revoked. If such license expires within sixty (60) days following the annexation date of such area, the license may be renewed by order of the commission for not more than one year. (*Ref. 53-135 RS Neb.*)

(B) The Municipal Clerk shall cause to be published in a legal newspaper in or of general circulation in the Municipality, one (1) time between January 10 and January 30 of each year, individual notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the Municipality, except that notice of the right of automatic renewal of Class C licenses shall be published between the dates of July 10 and July 30 of each year. If written protests to the issuance of automatic renewal of a license are filed in the office of the Municipal Clerk by three (3) or more residents of the Municipality on or before February 10, or August 10 for Class C licenses, the Governing Body shall hold a hearing to determine whether continuation of the license should be allowed. Upon the conclusion of any hearing required by this section, the Governing Body may request a licensee to submit an application as provided in section 53-135 RS Neb. (*Ref. 53-135.01 RS Neb.*) (*Amended by Ord. No. 296, 9/7/05*)

§10-108 ALCOHOLIC BEVERAGES; LICENSES; MUNICIPAL POWERS AND DUTIES. (A) The Governing Body is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail or craft brewery licensees carried on within the corporate limits of the Municipality. (*Ref. 53-134.03 RS Neb.*)

(B) During the period of forty-five (45) days after the date of receiving from the Nebraska Liquor Control Commission notice and a copy of an application for a new license to sell alcoholic liquor at retail or a craft brewery license, the Governing Body may make and submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant. (*Ref. 53-131 RS Neb.*)

(C) The Governing Body, with respect to licenses within the corporate limits of the Municipality, has the following powers, functions, and duties with respect to retail and craft brewery licenses:

(1) To cancel or revoke for cause retail or craft brewery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the Nebraska Liquor Control Commission;

(2) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act to determine whether any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation adopted by the Governing Body has been or is being violated and at such time examine the premises of such licensee in connection with such determination;

(3) To receive a signed complaint from any citizen within its jurisdiction that any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation relating to alcoholic liquor has been or is being violated and to act upon such complaints in the manner provided in the Act;

(4) To receive retail license fees and craft brewery license fees as provided in section 53-124 RS Neb. and pay the same, after the license has been delivered to the applicant, to the Municipal Treasurer;

(5) To examine or cause to be examined any applicant or any retail licensee or craft brewery licensee upon whom notice of cancellation or revocation has been served as provided in the Act, to examine or cause to be examined the books and records of any applicant or licensee, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the Governing Body may authorize its agent or attorney to act on its behalf;

(6) To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in section 10-122 (Citizen Complaints), it determines that the licensee has violated any

of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. Such order of cancellation or revocation may be appealed to the Commission within thirty (30) days after the date of the order by filing a notice of appeal with the Commission. The Commission shall handle the appeal in the manner provided for hearing on an application in section 53-133 RS Neb.;

(7) Upon receipt from the Commission of the notice and copy of application as provided in section 53-131 RS Neb., to fix a time and place for a hearing at which the Governing Body shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in the municipality, one (1) time not less than seven (7) and not more than fourteen (14) days before the time of the hearing. Such notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the Governing Body in support of or in protest against the issuance of such license may do so at the time of the hearing. The hearing shall be held not more than forty-five (45) days after the date of receipt of the notice from the Commission, and after such hearing the Governing Body shall cause to be recorded in the minute record of their proceedings a resolution recommending either issuance or refusal of such license. The Municipal Clerk shall mail to the Commission by first-class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the Commission. If the Commission refuses to issue such a license, the cost of publication of notice shall be paid by the Commission from the security for costs. (*Ref. 53-134 RS Neb.*)

(D) (1) When the Nebraska Liquor Control Commission mails or delivers to the Municipal Clerk a retail or craft brewery license issued or renewed by the commission, the Clerk shall deliver the license to the licensee upon receipt from the licensee of proof of payment of:

(a) The license fee if by the terms of section 53-124(5) RS Neb. the fee is payable to the Municipal Treasurer;

(b) Any fee for publication of notice of hearing before the Governing Body upon the application for the license;

(c) The fee for publication of notice of renewal, if applicable, as provided in section 53-135.01 RS Neb.; and

(d) Occupation taxes, if any, imposed by the Municipality.

(2) Notwithstanding any ordinance or charter power to the contrary, the Municipality shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the Municipality in any sum which exceeds two times the amount of the license fee required to be paid under the Act to obtain such license. (*Ref. 53-132 RS Neb.*) (*Amended by Ord. Nos. 245, 10/2/00; 294, 9/7/05*)

§10-109 ALCOHOLIC BEVERAGES; OWNER OF PREMISES.

The owner of any premise used for the sale at retail of alcoholic beverages shall be deemed guilty of a violation of these laws to the same extent as the said licensee if the owner shall knowingly permit the licensee to use the said licensed premise in violation of any Municipal Code Section or Nebraska Statute. (*Ref. 53-1,101 RS Neb.*)

§10-110 ALCOHOLIC BEVERAGES; EMPLOYER. The employer of any officer, director, manager, or employees working in a retail liquor establishment shall be held to be liable and guilty of any act or omission or violation of any law or ordinance, if such act is committed or omission made with the authorization, knowledge or approval of the employer or licensee, and each such act or omission shall be deemed and held to be the act of the employer, and will be punishable in the same manner as if the said act or omission had been committed by him personally. (*Ref. 53-1,102 RS Neb.*)

§10-111 ALCOHOLIC BEVERAGES; MINORS AND IN-COMPETENTS. It shall be unlawful for any person or persons to

sell, give away, dispose of, exchange, permit the sale of or make a gift of, any alcoholic liquors, or to procure any such alcoholic liquors to or for any minor, or to any person who is mentally incompetent. (Ref. 53-180 RS Neb.)

§10-112 ALCOHOLIC BEVERAGES; CREDIT SALES. No person shall sell or furnish alcoholic liquor at retail to any person or persons for credit of any kind, barter, or services rendered; Provided, nothing herein contained shall be construed to prevent any club holding a class C license from permitting checks or statements for alcoholic liquor to be signed by members, or guests of members, and charged to the accounts of the said members or guests in accordance with the by-laws of any such club; and Provided further, nothing herein shall be construed to prevent any hotel or restaurant holding a retail alcoholic beverage license from permitting checks or statements for liquor to be signed by regular guests residing in the said hotel, and charged to the accounts of such guests. (Ref. 53-183 RS Neb.)

§10-113 ALCOHOLIC BEVERAGES; SPIKING BEER. It shall be unlawful for any person or persons who own, manage, or lease any premise in which the sale of alcoholic beverages is licensed, to serve or offer for sale any beer to which there has been added any alcohol, or permit any person or persons to add alcohol to any beer on the licensed premise of such licensee. (Ref. 53-174 RS Neb.)

§10-114 ALCOHOLIC BEVERAGES; ORIGINAL PACKAGE.

It shall be unlawful for any person or persons who own, manage, or lease any premise in which the sale of alcoholic beverages is licensed, to have in their possession for sale at retail any alcoholic liquors contained in bottles, casks, or other containers except in the original package. (Ref. 53-184 RS Neb.)

§10-115 ALCOHOLIC BEVERAGES; HOURS OF SALE. It shall be unlawful for any licensed person or persons or their agents to sell any alcoholic beverages within the Municipality except during the hours provided herein:

HOURS OF SALE**Alcoholic Liquors (except beer and wine)****Secular Days**

Off Sale 6:00 A.M. to 1:00 A.M.

On Sale 6:00 A.M. to 1:00 A.M.

Sundays

Off Sale Prohibited

On Sale 6:00 P.M. to 1:00 A.M.

Beer and Wine**Secular Days**

Off Sale 6:00 A.M. to 1:00 A.M.

On Sale 6:00 A.M. to 1:00 A.M.

Sundays

Off Sale 6:00 A.M. to 1:00 A.M.

On Sale 6:00 A.M. to 1:00 A.M.

Provided, that such limitations shall not apply after twelve (12:00) o'clock Noon on Sunday to a licensee which is a nonprofit corporation holding a license pursuant to Section 53-124(C) and (I) Reissue Revised Statutes of Nebraska 1943.

No person or persons shall consume any alcoholic beverages on licensed premises for a period of time longer than fifteen (15) minutes after the time fixed herein for stopping the sale of alcoholic beverages on the said premises. For the purposes of this Section, "on sale" shall be defined as alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment; "off sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

Nothing in this Section shall be construed to prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this Section. (*Ref. 53-179 RS Neb.*) (*Amended by Ord. Nos. 142, 4/6/87; 299, 9/7/05*)

§10-116 ALCOHOLIC BEVERAGES; SANITARY CONDITIONS. It shall be unlawful to open for public use any retail liquor establishment that is not in a clean and sanitary condition. Toilet facilities shall be adequate and convenient for customers and patrons and said licensed premise shall be subject to any health inspections the Governing Body or the Municipal Police may make, or cause to be made. All applications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions, and a report concerning the said sanitary conditions shall be made at all hearings concerning the application for, or renewal of, a liquor license. (*Ref. 53-118 RS Neb.*)

§10-117 ALCOHOLIC BEVERAGES; HIRING MINORS. It shall be unlawful for any person to hire a minor regardless of sex under the age of nineteen (19) years to serve or dispense alcoholic liquors, including beer, to said licensee's customers. (*Ref. 53-102 RS Neb.*)

§10-118 ALCOHOLIC BEVERAGES; CONSUMPTION IN PUBLIC PLACES OR PLACES OPEN TO THE PUBLIC; RESTRICTIONS. (1) Except when the Nebraska Liquor Control Commission has issued a license as provided in section 53-186(2) RS Neb., it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property.

(2) It is unlawful for any person owning, operating, managing, or conducting any dance hall, restaurant, cafe, or club or any place open to the general public to permit or allow any person to consume alcoholic liquor upon the premises except as permitted by a license issued for such premises pursuant to the Nebraska Liquor Control Act. It is unlawful for any person to consume alcoholic liquor in any dance hall, restaurant, cafe, or club or any place open to the general public except as permitted by a license issued for such premises pursuant to the Act. This subsection does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages. (*Ref. 53-186(1), 53-186.01 RS Neb.*) (*Amended by Ord. No. 244, 10/2/00*)

§10-119 ALCOHOLIC BEVERAGES; ACQUISITION OF ALCOHOLIC BEVERAGES.

It shall be unlawful for any person to have possession of any alcoholic liquors which shall have been acquired otherwise than from a licensee duly licensed to sell same to such person under the provisions of the Nebraska Liquor Control Act; Providing, nothing herein shall prevent the possession of alcoholic liquor for the personal use of the possessor, his family and guests, as long as the quantity of alcoholic liquor transported, imported, brought, shipped or caused to be transported, imported, brought, or shipped into the State for personal use does not exceed one (1) gallon at any one (1) time or in excess of two (2) gallons in any one (1) calendar month, nor prevent the making of wine, cider or other alcoholic liquor by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if it is made solely for the use of the maker, his family and his guests; Provided further, that nothing herein shall prevent any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his profession, or any hospital or institution caring for the sick and diseased persons, from possessing any alcoholic liquor for the treatment of bona fide patients of such hospital or other institution; Provided further, that any drug store employing a licensed pharmacist may possess and use alcoholic liquors in the compounding of prescriptions of duly licensed physicians; and Provided further, that the possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church shall not be prohibited by this Section; Provided further, that persons who are sixteen (16) years old or older may carry beer from grocery stores when they are accompanied by a person not a minor, persons who are sixteen (16) years old or older may handle beer containers and beer in the course of their employment in grocery stores, and persons who are sixteen (16) years old or older may remove and dispose of alcoholic liquor containers for the convenience of their employer and customers in the course of their employment as waiters, waitresses, or busboys, by any restaurant, club, hotel, or similar organization; and provided

further, that persons who are nineteen (19) years old or older may serve or sell alcoholic liquor in the course of their employment. (*Ref. 53-102, 53-164.01, 53-175 RS Neb.*)

§10-120 ALCOHOLIC BEVERAGES; REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY. Any law enforcement officer with the power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself, or others, or who is otherwise incapacitated, from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take such intoxicated person to his or her home or to place such person in any hospital, clinic, alcoholism center, or with a medical doctor as may be necessary to preserve life or to prevent injury. Such effort at placement shall be deemed reasonable if the officer contacts those facilities or doctor which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If such efforts are unsuccessful or are not feasible, the officer may then place such intoxicated person in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury, and under no circumstances longer than twenty-four (24) hours. The placement of such person in civil protective custody shall be recorded at the facility or jail at which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to such person designated by the person taken into civil protective custody.

The law enforcement officer who acts in compliance with this Section shall be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for such actions. The taking of an individual into civil protective custody under this Section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

For purposes of this Section, public property shall mean any public right-of-way, street, highway, alley, park, or other state, county, or municipally-owned property.

For the purposes of this Section, quasi-public property shall mean and include private or publicly-owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress. (*Ref. 53-1,121 RS Neb.*)

§10-121 ALCOHOLIC BEVERAGES; LICENSED PREMISES; INSPECTIONS.

The Governing Body shall cause frequent inspection to be made on the premises of all retail licensees. If it is found that any such licensee is violating any provision of this Article, the Nebraska Liquor Control Act, or the rules and regulations of the Nebraska Liquor Control Commission or is failing to observe in good faith the purposes of this article or the act, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in his or her defense. (*Ref. 53-116.01 RS Neb.*) (*Amended by Ord. No. 295, 9/7/05*)

§10-122 ALCOHOLIC BEVERAGES; CITIZEN COMPLAINTS.

Any five (5) residents of the Municipality shall have the right to file a complaint with the Governing Body stating that any retail licensee subject to the jurisdiction of the Governing Body has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the Act. Such complaint shall be in writing in the form prescribed by the Governing Body and shall be signed and sworn to by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the Governing Body is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten (10) days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint. The complaint

shall in all cases be disposed of by the Governing Body within thirty (30) days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided in section 53-1,115 RS Neb. (*Ref. 53-134.04 RS Neb.*) (*Amended by Ord. No. 298, 9/7/05*)

§10-123 ALCOHOLIC BEVERAGES; LIQUOR APPLICATION; MUNICIPAL EXAMINATION. (*Repealed by Ord. No. 245, 10/2/00*)

§10-124 ALCOHOLIC BEVERAGES; LIQUOR APPLICATION; NOTICE; PROCEDURE. (*Repealed by Ord. No. 245, 10/2/00*)

§10-125 ALCOHOLIC BEVERAGES; LIQUOR APPLICATIONS; RETAIL LICENSING STANDARDS; BINDING RECOMMENDATIONS. (*Repealed by Ord. No. 245, 10/2/00*)

§10-126 ALCOHOLIC BEVERAGES; CATERING LICENSES.

(A) The holder of a license to sell alcoholic liquor at retail issued under section 53-124(5) RS Neb. or a craft brewery license may obtain an annual catering license by filing an application and license fee with the Nebraska Liquor Control Commission.

(B) Upon receipt from the commission of the notice and a copy of the application as provided in section 53-124.12 RS Neb., the Governing Body shall process the application in the same manner as provided in section 10-108 (Alcoholic Beverages; Licenses; Municipal Powers and Duties).

(C) The Governing Body, with respect to catering licensees within its corporate limits, may cancel a catering license for cause for the remainder of the period for which such catering license is issued. Any person whose catering license is canceled may appeal to the District Court.

(D) The Governing Body may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the Governing Body. The tax may not exceed double the license fee for a catering license. (*Ref. 53-124.12 RS Neb.*) (*Ord. No. 297, 9/7/05*)

Article 2. Franchises

§10-201 FRANCHISE; NATURAL GAS. The Governing Body has granted to the K-N Energy, Inc. the authority to construct, maintain, and operate a gas transmission, and distribution system within the Municipality. Actual details of the agreement, and the present gas rates, charges, and fees are available at the Municipal Clerk's office. (*Ref. 17-528.02 RS Neb.*)

§10-202 FRANCHISE: TELEPHONE. The Governing Body has granted to the United Telephone Company of the West the authority to maintain, and operate a telephone system within the Municipality. Actual details of the agreement, and the present telephone rates, charges, and fees are available at the Municipal Clerk's office. (*Ref. 17-525 RS Neb.*)

§10-203 FRANCHISE; ELECTRICITY. The Governing Body has granted to the Nebraska Public Power District the authority to maintain and operate the light and power system in the Municipality for the purpose of furnishing electric energy to the Municipality, and fixing the charges for such services. Actual details of the agreement and the present electrical rates, charges, and fees are available at the Municipal Clerk's office. (*Ref. 17-528.03 RS Neb.*)

Broadwater Code

Article 3. Occupation Taxes

§10-301 OCCUPATION TAX; AMOUNTS. For the purpose of raising revenue an occupation tax is hereby levied on the following businesses:

Retailers of alcoholic liquors:

On and off sales \$150.00

On sale 25.00

(Ref. 17-505 RS Neb.)

§10-302 OCCUPATION TAX; COLLECTION DATE.

All occupation taxes shall be due, and payable on the first (1st) day of May of each year, except in the event that the said tax is levied daily, and upon the payment thereof by any person or persons to the Municipal Clerk, the said Clerk shall give a receipt, properly dated, and specifying the person paying the said tax, and the amount paid; Provided, occupation taxes collected from Class C liquor licensees shall be due and payable on the first (1st) day of November. The revenue collected shall then be immediately deposited into the General Fund by the Municipal Treasurer. The Municipal Treasurer shall keep an accurate account of all revenue turned over to him. All forms, and receipts herein mentioned shall be issued in duplicate. One (1) copy shall then be kept by each party in the transaction. *(Ref. 17-525 RS Neb.)*

§10-303 OCCUPATION TAX; CERTIFICATES.

The receipt issued after the payment of any occupation tax shall be the Occupation Tax Certificate. The said certificate shall specify the amount of the tax and the name of the person, and business that paid the said tax. The Occupation Tax Certificate shall then be displayed in a prominent place, or carried in such a way as to be easily accessible, while business is being conducted. *(Ref. 17-525 RS Neb.)*

§10-304 OCCUPATION TAX; FAILURE TO PAY.

If any person, company, or corporation fails, or neglects to pay the occupation taxes as provided herein on the day it becomes due, and payable, the Municipality shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of one (1%) per cent per month until paid. (*Ref. 17-525 RS Neb.*)

Article 4. Penal Provision

§10-401 VIOLATION; PENALTY. (1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred (\$500.00) dollars. A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

(2) (a) Whenever a nuisance exists as defined in this chapter, the Municipality may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (*Ref. 17-207, 17-505, 18-1720, 18-1722 RS Neb.*) (*Amended by Ord. No. 254, 10/2/00*)

Broadwater Code

MUNICIPAL PLANNING

Article 1. Zoning and Subdivision Regulations

§11-101 ZONING AND SUBDIVISION REGULATIONS; ADOPTED BY REFERENCE. (1) *Adoption.* There is hereby adopted and incorporated by reference for the Village, comprehensive zoning and subdivision regulations to be known as "Zoning and Subdivision Regulations for the Village of Broadwater, Nebraska".

(2) *Jurisdiction.* The area of jurisdiction shall be all land within the corporate limits of the Village of Broadwater, Morrill County, Nebraska, and all the area within the planning jurisdiction as defined on the Official Zoning District Map of Broadwater, Nebraska.

(3) *Available for Public Inspection.* A copy of said Zoning and Subdivision Regulations in book form with zoning maps, marked "Official Copy as Adopted by Ordinance No. 288", shall be on file at the Clerk's office and open to inspection and available to the public at all reasonable business hours.

(4) *Effective Date.* This section shall take effect and be enforced from and after this passage and publication as provided by law. (*Ord. No. 288, 8/2/04*)

Broadwater Code

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