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CHAPTER 7 – PUBLIC UTILITIES

Article 1 – Utilities Generally

SECTION 7-101: VILLAGE POWERS; RATE SETTING

The village currently owns and operates a water supply and distribution system and a sanitary sewer disposal and treatment system. The village has the right and power to tax assets and collect from its residents payment for use of the water supplied to them by the water system and for use of the sewer system. The Village Board is authorized to establish by ordinance such rates for water and sewer service as may be deemed fair and reasonable. All such rates, taxes, or rent shall be a lien upon the premises or real estate for which the same is used or supplied and such rates, taxes, or rent shall be paid and collected and such lien enforced in such manner as the board shall by ordinance direct and provide. All such rates, taxes, or rent shall be on file in the office of the village clerk for public inspection. (Neb. Rev. Stat. §§17-538, 17-542)

SECTION 7-102: MANDATORY USE OF VILLAGE SERVICES

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

SECTION 7-103: BILLING AND COLLECTIONS; DELINQUENCY

A. Water, sewer, and garbage pickup bills shall be issued on or about the first day of each month. Bills shall be due upon receipt and if not paid by the 20th day of the month shall be deemed delinquent. Any consumer whose utility bill is still unpaid on the 10th day of the following month shall be notified that his or her water service is subject to disconnection, subject to Section 7-104 below, if the said delinquent bill is not paid as soon as possible.

B. Water service which has been cut off shall be reconnected upon receipt of payment in full of the delinquent charges and further, upon payment of a fee, as set by the Village Board and placed on file in the office of the village clerk, for reconnection of the water service.

(Neb. Rev. Stat. §§17-538, 17-542) (Ord. Nos. 6-603, 8/5/02; 6-604, 8/5/02; 6-111, 3/14/11)

SECTION 7-104: DISCONTINUANCE OF SERVICE; NOTICE; PROCEDURE

Prior to the discontinuance of service to any domestic subscriber by a village utility, the subscriber upon request shall be provided a conference with the Village Board, which has established procedures to resolve utility bills when a conference is requested. Such procedures, which shall be on file in the office of the village clerk, are hereby incorporated by reference in addition to any amendments thereto and are

made a part hereof as though set out in full. A copy of such procedures shall be furnished upon the request of any domestic subscriber. The board shall notify the domestic subscriber of the time, place, and date scheduled for such conference. (Neb. Rev. Stat. §§70-1603, 70-1604) (Am. Ord. No. 6-603, 8/5/02)

SECTION 7-105: LIEN

In addition to all other remedies, if a consumer shall for any reason remain indebted to the village for utility services furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent utility rent which is hereby declared to be a lien upon the real estate for which the same was used. The village clerk shall notify in writing all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of utility charges. It shall be the duty of the village clerk to report to the Village Board on the first day of each month a list of all unpaid accounts due for utilities which are more than 60 days delinquent, together with a description of the premises upon which the same were used. The report shall be examined and if approved by the board, shall be certified by the village clerk to the county clerk to be collected as a special tax in the manner provided by law. (Neb. Rev. Stat. §§17-538, 17-925.01, 18-503) (Am. Ord. No. 6-604, 8/5/02)

SECTION 7-106: DIVERSION OF SERVICES; UNLAWFUL ACTS

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

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

C. Any person who reconnects electrical, gas, or water service without the knowledge and consent of the supplier of such service if the service has been disconnected pursuant to Neb. Rev. Stat. §§70-1601 to 70-1615 or Section 7-104 of this code shall be deemed guilty of an offense.

D. Any person who willfully injures, alters, or by any instrument, device, or contrivance in any manner interferes with or obstructs the action or operation of any meter made or provided for measuring or registering the amount or quantity of elec-

tricity, electric current, gas, or water passing through it without the knowledge and consent of the supplier of the electricity, electric current, gas, or water passing or intended to pass through such meter shall be deemed guilty of an offense.

E. Proof of the existence of any wire, pipe, or conduit connection or reconnection or of any injury, alteration, interference, or obstruction of a meter is *prima facie* evidence of the guilt of the person in possession of the premises where such connection, reconnection, injury, alteration, interference, or obstruction is proved to exist. (Neb. Rev. Stat. §28-515.02)

SECTION 7-107: DIVERSION OF SERVICES; PENALTY

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

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

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

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

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

E. There shall be a rebuttable presumption that a customer at any premises where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the customer controlled access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering was proven to exist.

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

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

Article 2 – Water Department

SECTION 7-201: OPERATION AND FUNDING

A. The village owns and operates the Water Department through the utilities superintendent. The Village Board, for the purpose of defraying the cost of the care, management, and maintenance of the Water Department, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the water fund and shall remain in the custody of the village treasurer.

B. The utilities superintendent shall have the direct management and control of the Water Department and shall faithfully carry out the duties of his office. The superintendent shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department, subject to the supervision and review of the Village Board. The said board shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the village clerk for public inspection during office hours.

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

SECTION 7-202: DEFINITIONS

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

"Main" is hereby defined to be any pipe other than a supply or service pipe that is used for the purpose of carrying water to and dispersing the same in the village.

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

"Service pipe" is hereby defined to be any pipe extending from the shut-off, stop box, or curb cock at or near the lot line to and beyond the property line of the consumer to the location on the premises where the water is to be dispersed.

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

SECTION 7-203: MANDATORY HOOKUP

A. The village through its Water Department shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid.

B. The village may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a village commercial main is now or may hereafter be laid.

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

D. Private wells previously constructed and operating prior to the village's establishment of its water system shall be permitted to operate, providing that such well complies with other existing, applicable ordinances and does not violate applicable state laws or regulations promulgated by the Nebraska Department of Health.
(Neb. Rev. Stat. §17-532)

SECTION 7-204: WATER SERVICE BEYOND CORPORATE LIMITS; RATES

A. The village, by resolution of the Village Board, shall have the authority to contract with any person, corporation, or association to sell water service beyond its corporate limits when in their judgment it is beneficial to do so. The village shall not incur any cost or expense beyond its commercial mains in providing the means of such service, which shall not be instituted or continued except to the extent that the facilities of the village for supplying water service are in excess of the requirements of the inhabitants of the village.

B. For the furnishing of water beyond its corporate limits subject to the above conditions, the village may establish rates with such persons, firms, or corporations without regard to the rates specified for resident customers; provided, the contracts and rates made for the non-residents shall be uniform so far as they affect the users of equal amounts of water under such contracts. The chairman and board shall have the power to set non-resident rates and charges to be paid by non-resident consumers. A copy of such rates is on file at the office of the village clerk for public inspection.

(Neb. Rev. Stat. §§17-537, 19-2701)

SECTION 7-205: CONSUMER'S APPLICATION; SERVICE DEPOSIT

Every person or persons desiring a supply of water must make application therefor to the village clerk, who may require any applicant to make a service deposit in such amount as set by resolution by the Village Board and placed on file at the village office. The application shall be supplemented by any plans, specifications, or other in-

formation considered pertinent in the judgment of the village clerk. Water shall not be supplied to any house or private service pipe except upon the order of the utilities superintendent. (Neb. Rev. Stat. §§17-537, 19-2701)

SECTION 7-206: WATER CONTRACT; NOT TRANSFERABLE

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

B. The making of application on the part of any applicant for the use or consumption of water by a new consumer thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the village, to which said contract both parties are bound. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the Village Board may hereafter adopt, the utilities superintendent or his agent may cut off or disconnect the water service from the building or premises of such violation. No further connection for water service to said building or premises shall again be made save or except by order of said superintendent or his agent.

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

(Neb. Rev. Stat. §17-537)

SECTION 7-207: PROHIBITION OF LEAD PIPES, SOLDER AND FLUX

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

SECTION 7-208: WATER METERS REQUIRED; LAWFUL USE

All municipal water use shall be metered as provided in this article. Municipal water shall not be utilized to irrigate crops or other agricultural products; provided, watering of gardens and lawns with municipal water shall be allowed.

SECTION 7-209: INSTALLATION; EXPENSE; TAP FEE

A. The expense of tapping the main and installing the meter and stop box shall be paid by the village. It shall be unlawful for any person other than an employee of the village Water Department to tap a water main.

B. The expense of providing water service from the stop box to the place of distribution shall be paid entirely by the consumer, who shall pay a tap fee to compensate the village for the cost of tapping the main. Such fee shall be as set by resolution of the Village Board and filed in the office of the village clerk. The consumer shall be required to pay the expense of procuring the services of a licensed plumber and the costs of providing water service from the stop box to his or her own premises.

C. The village shall not be required to extend water service at its own expense to any lot which does not abut on a street at a place where a commercial water main is in existence at the time the service shall be applied for. The costs of the extension of any water main for service to a specific consumer shall be borne by the water applicant. Where water mains are extended, the village may furnish all labor and equipment necessary for the installation of water mains and services and shall charge the applicant the actual costs thereof. In cases where the main construction requires a connecting feeder main, the assessments to all the properties benefited shall include the cost of the feeder main. The extension of commercial mains into unsupplied territory within the corporate limits may be made by means of water extension districts.

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

(Neb. Rev. Stat. §17-542)

SECTION 7-210: WATER AND SEWER PIPE IN SAME TRENCH

It shall be unlawful to lay a water pipe in the same trench with a sewer pipe. Any water pipe shall not be laid closer than 10 feet to any sewer pipe at any point measured horizontally; and in any case where a water pipe is as close as 10 feet to a sewer pipe, measured horizontally, the water pipe shall be placed at a higher elevation.

SECTION 7-211: REPAIRS AND MAINTENANCE

A. The village shall be the owner of any water mains and shall maintain and replace the same at no cost to the applicant or user. In cases where the main construction requires a connecting feeder main, the assessments to all the properties benefited shall include the cost of the feeder main. The village shall repair or replace, as the case may be, all supply pipe between the commercial main and the stop box.

B. The customer at his or her own expense shall replace and keep in repair all service pipe from the stop box to the place of dispersal. 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 superintendent.

C. All water meters shall be kept in repair by the village at its expense. When meters are worn out, they shall be replaced and reset by the village at its expense; provided, if the customer permits or allows a water meter to be damaged, injured, or destroyed through his or her own recklessness, carelessness, or neglect so that the meter must be repaired or replaced, the 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.

D. All meters shall be tested at the customer's request at his or her expense any reasonable number of times; provided, if the test shows the water meter to be running 2% or more fast, the village shall bear the expense of such test. The village reserves the right to test any water service meter at any time and if said meter is found to be beyond repair, the village shall always have the right to place a new meter on the customer's water service fixtures at village 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, if no such basis for comparison exists, the customer shall be charged such amount as may be reasonably fixed by the utilities superintendent.

(Neb. Rev. Stat. §17-537)

SECTION 7-212: PLUMBER'S LIABILITY

No plumber shall do any work upon the service pipe or any other portion of the plumbing system of any premises either within or without a building which will amount to \$50.00 or more without first securing a permit from the Village Board to do such work. All work by plumbers shall be done in the manner required by the utilities superintendent and shall be at all times subject to the inspection and approval of the superintendent. Plumbers who connect with the public water system shall be held responsible for any damage to the pipes or the public ways and property and shall restore all excavated streets to the complete satisfaction of the utilities superintendent. It shall be unlawful to cover or conceal willfully any defective or unsatisfactory work.

(Neb. Rev. Stat. §17-537)

SECTION 7-213: INSTALLATION OR REPAIR PROCEDURE

A. In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe or making repairs, the paving and earth must be removed and deposited in a manner that will be least inconvenient to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade and, during the night, warning lights.

B. After service pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of 24 hours or more, the utilities superintendent shall have the duty to finish or correct the work and all expenses so incurred shall be charged to the consumer.

C. All installations or repairs of pipes require two inspections by the utilities superintendent: (A) when connections or repairs are completed and before the pipes are covered and (B) after the dirt work is completed and the service is restored. It is the customer's responsibility to notify the superintendent 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 superintendent; provided, the said rules, regulations, and specifications have been reviewed and approved by the Village Board.

(Neb. Rev. Stat. §§17-537, 71-5301)

SECTION 7-214: WATER RATES

All water consumers shall be liable for the minimum rate provided by ordinance unless and until a consumer shall direct the utilities superintendent to shut off the water at the stop box, in which case he or she shall not be liable thereafter for water usage until the water is turned on again. (Neb. Rev. Stat. §§17-540, 17-542)

SECTION 7-215: BILLING AND COLLECTIONS

The village clerk shall bill the consumers and collect all money received by the village on the account of the Water Department, and faithfully account for and pay to the village treasurer all revenue collected. Billing, collection and termination procedures are set forth in Sections 7-103 and 7-104. (Neb. Rev. Stat. §17-540)

SECTION 7-216: RIGHT OF ENTRY FOR INSPECTION

The utilities superintendent or his duly authorized agent shall have free access at any reasonable time to all parts of each premises and building to or in which water is delivered for the purpose of examining the pipes, fixtures, and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water.

SECTION 7-217: LEAKS

If any leak or break in any supply pipe or service pipe shall occur, the chairman and Village Board, through the utilities superintendent or his duly authorized agent, shall forthwith shut off water to said premises until said leak or break is repaired by the consumer. (Neb. Rev. Stat. §17-537)

SECTION 7-218: WASTE OF WATER

No person shall deliberately waste water. The utilities superintendent may make and publish such regulations as he deems necessary to determine what constitutes deliberate waste of water, but such regulations when made shall apply uniformly throughout the village.

SECTION 7-219: DESTRUCTION OF PROPERTY

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

SECTION 7-220: FIRE HYDRANTS

A. All hydrants for the purpose of extinguishing fires are hereby declared to be public hydrants and it shall be unlawful for any person other than (A) members of the Fire Department under the orders of the fire chief or the assistant chief or (B) employees of the Water Department to open or attempt to open any of the hydrants and draw water from the same or in any manner to interfere with the hydrants.

B. Installation of fire hydrants and valves pertaining to hydrants will be paid for out of the Water Fund.

SECTION 7-221: RESTRICTIONS DURING FIRE

All persons using water shall keep their fixtures closed during any fire and shall be responsible for any damage or injury that may result to others from improper use of said water.

SECTION 7-222: POLLUTION

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Water Department. (Neb. Rev. Stat. §17-536)

SECTION 7-223: FLUORIDE PROHIBITED

Fluorides shall not be added to the water supply of the village.

SECTION 7-224: BACKFLOW PREVENTION; CUSTOMER INSTALLATION AND MAINTENANCE; TESTING

A. A customer of the Water Department may be required by the utilities superintendent to install and maintain at his or her expense a properly located backflow

prevention device appropriate to the potential hazards set forth in Nebraska Department of Health, Title 179, and approved by the utilities superintendent.

B. The customer shall make application to the utilities superintendent to install a required backflow prevention device on a form provided by the village. The application shall contain at a minimum the name and address of the applicant, the type of potential hazard protection required, and the type of backflow device to be installed, including brand and model number. The superintendent shall approve or disapprove the application based on his opinion of whether such installation will protect the village water distribution system from potential backflow and cross-connection hazards.

C. The installation of the device shall be subject to all other sections of this code dealing with installation of plumbing, including the use of a licensed plumber, if applicable.

D. Every backflow prevention device equipped with a test port shall be tested as often as required by the village but at least once each year by a Grade 6 certified water operator, with test results certified to the village as often as required but in no case more than 30 calendar days after the test. Such certification shall be made on a form available at the office of the village clerk.

E. All customers of the Water Department shall be required to report to the utilities superintendent at least every five years any potential backflow hazards which may be on their premises.

F. Any decision of the utilities superintendent may be appealed to the Village Board.

SECTION 7-225: WELLS AND OTHER UNDERGROUND FACILITIES; DISTANCE FROM VILLAGE WATER SOURCES

A. It shall be unlawful to cause pollution to or be in a position to cause pollution to the public water supply by willfully or carelessly allowing the following facilities, acts, or events within the specified footage of any village public water supply well. The following facilities, acts, or events shall be defined as nuisances for purposes of this section:

Water well	1,000 feet
Sewage lagoon	1,000 feet
Land application of municipal/industrial waste material	1,000 feet
Feedlot or feedlot runoff	1,000 feet
Underground disposal system (septic system, etc.)	500 feet
Corral	500 feet
Pit toilet, vault toilet	500 feet
Wastewater holding tank	500 feet
Sanitary landfill/dump	500 feet
Chemical or petroleum product storage	500 feet

Sewage treatment plant	500 feet
Sewage wet well	500 feet
Sanitary sewer connection	100 feet
Sanitary sewer manhole	100 feet
Sanitary sewer line	50 feet

B. It shall be unlawful for any person, corporation, or other legal entity to drill and/or operate any of the above-named facilities within the corporate limits of the village or its extraterritorial jurisdiction without first having obtained the proper permit from the Village Board. In order to obtain a permit to drill and/or operate any of the said facilities, the owner of property on which the proposed facility is to be located must make application on the proper form provided by the village. Such application must be presented to the board at any regular or special meeting. After reviewing the application of any person desiring to drill or operate any of the facilities described above, then the board must approve or deny said permit.

C. In the event any facility as described herein is installed or operated (1) without first having obtained a permit from the village and/or (2) within the designated number of feet from the village water supply, then such facility shall be deemed a nuisance and the Village Board shall abate such facility as a public nuisance pursuant to Chapter 3, Article 5 of this code.

SECTION 7-226: COMMERCIAL LIVESTOCK WATERING OPERATIONS

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

SECTION 7-227: RESTRICTED USE

The Village Board or the utilities superintendent may order a reduction in the use of water or shut off the water on any premises in the event of a water shortage due to fire, drought, or other good and sufficient cause. The village shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the village has no control. (Neb. Rev. Stat. §17-537)

(Sections 7-228 through 7-235, Ord. No. 6-148, 9/7/04)

SECTION 7-228: WATER EMERGENCY; DEFINITIONS; CLASSES OF USE

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

1. "Water" shall mean water available to the village for treatment by virtue of its water rights or any treated water introduced by the village into its water distribution system, including water offered for sale at any coin-operated site.

2. "Customer" shall mean the customer of record using water for any purpose from the village's water 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.
3. "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.

B. The following classes of uses of water are established:

1. *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.
2. *Class 2:* Water used for any commercial or industrial purpose, including agricultural, except water actually necessary to maintain the health and personal hygiene of bona fide employees while they are engaged in the performance of their duties at their places of employment.
3. *Class 3:* Domestic usage, other than that which would be included in either Classes 1 or 2.
4. *Class 4:* Water necessary only to sustain human life and the lives of domestic pets and maintain standards of hygiene and sanitation.

SECTION 7-229: WATER EMERGENCY; DECLARATION OF WATCH, WARNING OR EMERGENCY

A. Whenever the Village Board finds that conditions indicating that the probability of a drought or some other condition causing a major water supply shortage is rising, it shall be empowered to declare by resolution that a water watch exists and that it shall take steps to inform the public and ask for voluntary reductions in water use. Such a watch shall be deemed to continue until it is declared to have ended by resolution of the board. The resolutions declaring the existence and end of a water watch shall be effective upon their publication in the official village newspaper.

B. Whenever the Village Board finds that drought conditions or some other condition causing a major water supply shortage are present and supplies are starting to decline, it shall be empowered to declare by resolution that a water warning exists and that it will recommend restrictions on nonessential uses during the period of warning. Such a warning shall be deemed to continue until it is declared to have ended by resolution of the board. The resolutions declaring the beginning and ending of the water warning shall be effective upon their publication in the official village newspaper.

C. Whenever the Village Board finds that an emergency exists by reason of a shortage of water supply needed for essential uses, it shall be empowered to declare by resolution that a water supply emergency exists and that it will impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared to have ended by resolution of the board. The resolutions declaring the existence and end of a water supply emergency shall be effective upon their publication in the official village newspaper.

SECTION 7-230: WATER EMERGENCY; VOLUNTARY CONSERVATION MEASURES

Upon the declaration of a water watch or water warning, the village chairman is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate nonessential water uses including but not limited to limitations on the following uses: (A) sprinkling of water on lawns, shrubs or trees, including golf courses; (B) washing of automobiles; (C) use of water in swimming pools, fountains and evaporative air conditioning systems; and (D) waste of water.

SECTION 7-231: WATER EMERGENCY; MANDATORY CONSERVATION MEASURES

Upon the declaration of a water supply emergency, the chairman is also authorized to implement certain mandatory water conservation measures including but not limited to the following:

A. Suspension of new connections to the village's water distribution system, except connections of fire hydrants and those made pursuant to agreements entered into by the village prior to the effective date of the declaration of the emergency;

B. Restrictions on the uses of water in one or more classes of water use, wholly or in part;

C. Restrictions on the sales of water at coin-operated facilities or sites;

D. The imposition of water rationing based on any reasonable formula including but not limited to the percentage of normal use and per capita or per consumer restrictions;

E. Complete or partial bans on the waste of water; and

F. Any combination of the foregoing measures.

SECTION 7-232: WATER EMERGENCY; EMERGENCY WATER RATES

Upon the declaration of a water supply emergency, the Village Board shall have the

power to adopt emergency water rates by ordinance designed to conserve water supplies. Such emergency rates may provide for but are not limited to: (A) higher charges for increasing usage per unit of use (increasing block rates); (B) uniform charges for water usage per unit of use (uniform unit rate); or (C) extra charges in excess of a specified level of water use (excess demand surcharge).

SECTION 7-233: WATER EMERGENCY; REGULATIONS

During the effective period of any water supply emergency, the village chairman is empowered to promulgate such regulations as may be necessary to carry out the provisions of this ordinance, any water supply emergency resolution, or emergency water rate ordinance. Such regulations shall be subject to the approval of the Village Board at its next regular or special meeting.

SECTION 7-234: WATER EMERGENCY; VIOLATIONS, DISCONNECTIONS AND PENALTIES

A. If the chairman or other village official charged with implementation and enforcement of this ordinance or a water supply emergency resolution learns of any violation of any water use restrictions imposed herein, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record or any other person known to the village who is responsible for the violation or its correction shall be provided with either actual or mailed notice. Said notice shall describe the violation and order that it be corrected, cured, or abated immediately or within such specified time as the village determines is reasonable under the circumstances.

B. If the order is not complied with, the village may terminate water service to the customer subject to the following procedures:

1. The village shall give the customer notice by mail or actual notice that water service will be discontinued within a specified time due to the violation and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the Village Board or a village official designated as a hearing officer;
2. If such a hearing is requested by the customer charged with the violation, he or she shall be given a full opportunity to be heard before termination is ordered; and
3. The Village Board or hearing officer shall make findings of fact and order whether service should continue or be terminated.

C. A fee shall be paid for the reconnection of any water service terminated pursuant to subsection (A). In the event of subsequent violations, the reconnection fee shall be increased for the second and subsequent reconnections. Said fees shall be set by the Village Board and placed on file in the office of the village clerk for pub-

lic inspection.

D. Violations of this section shall be a municipal offense and may be prosecuted in County Court. The penalty for an initial violation shall be a mandatory fine. In addition, such customer may be required by the court to serve a definite term of confinement in the village or county jail, to be fixed by the court and not exceeding 30 days. The penalty for a second or subsequent conviction shall also be a mandatory fine. In addition, such customer shall serve a definite term of confinement in the village or county jail as fixed by the court and not exceeding 30 days. Said fine amounts shall be set by the Village Board, placed on file in the office of the village clerk for public inspection.

SECTION 7-235: WATER EMERGENCY; AUTHORIZATION

Nothing in this ordinance shall limit the ability of any properly authorized village official to terminate the supply of water to any or all customers upon the determination of such official that emergency termination of water service is required for protection of the health and safety of the public.

Article 3 – Sewer Department

SECTION 7-301: OPERATION AND FUNDING

A. The village owns and operates the sewer system through the utilities superintendent. The Village Board, for the purpose of defraying the cost of the management and maintenance of the sewer system, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the sewer maintenance fund.

B. The utilities superintendent shall have the direct management and control of the Sewer Department and shall faithfully carry out the duties of his office. He shall have the authority to adopt rules and regulations for the sanitary and efficient management of the department subject to the supervision and review of the Village Board. The said board shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the village clerk for public inspection during office hours.

(Neb. Rev. Stat. §17-925.01)

SECTION 7-302: DEFINITIONS

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

"Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning 5 feet outside the inner face of the building wall.

"Building or 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.

"Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

"Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

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

"Public sewer" shall mean a sewer that is controlled by public authority.

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

"Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

"Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

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

"Sewer system" shall mean and include all facilities for collecting, pumping, treating, and disposing of sewage.

"Utilities superintendent" shall mean the utilities superintendent of the village sewage system or his authorized deputy, agent or representative.

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

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

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

B. It shall be unlawful to discharge to any natural outlet within the village, within one mile of the corporate limits thereof or in any area under its jurisdiction, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsection (E) below.

C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other similar facility intended or used for the disposal of sewage. Septic tanks may be installed as provided in Section 7-318.

D. Storm water and all other unpolluted drainage including surface water, sub-surface drainage, ground water, and roof runoff shall be discharged to specifically designated combined sewers or storm sewers or to a natural outlet approved by the utilities superintendent. Industrial cooling water or unpolluted process water may be discharged, on approval of the utilities superintendent, to a storm sewer, combined sewer, or natural outlet. The contributor of any identifiable discharge of polluted water to the sanitary sewer system shall be held responsible for reimbursing the village for such costs, which shall be as determined by the utilities superintendent. It shall further be unlawful to connect or maintain connected to the sanitary sewer system any

pump which pumps any of the above-identified kinds of water for any purpose whatsoever.

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

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

SECTION 7-304: MANDATORY HOOKUP

A. The owner of any house, building, or property used for human employment, recreation, or other purposes situated within the village and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer line of the village is hereby required at the owner's expense to install suitable toilet facilities therein and to connect such facilities directly with the said public sewer in accordance with the provisions of this article within 90 days after date of official notice to do so, provided that said public sewer is within 220 feet of the property line.

B. The village may furnish sewer service to persons within its corporate limits whose property line is not within 220 feet of the said public sewer with permission from the Village Board, provided that the entire cost of pipe and other installation charges shall be paid by such consumer.
(Neb. Rev. Stat. §18-503)

SECTION 7-305: SERVICE TO NON-RESIDENTS

The Sewer Department shall not supply sewer service to any person outside the corporate limits without special permission from the Village Board; provided, the entire cost of pipe and other installation charges shall be paid by such consumer. Nothing herein shall be construed to obligate the village to provide sewer service to non-residents. (Neb. Rev. Stat. §19-2701)

SECTION 7-306: CONSUMER'S APPLICATION; CLASSIFICATION; FEES

There shall be two classes of building sewer permits: (1) for residential and commercial service to property that has been previously assessed for the costs of the sanitary sewer main to which the building is to connect and (2) for residential and commercial service to property that has not been previously assessed for the cost of the sanitary sewer main to which the building sewer is to connect. In either case, the owner or his or her agent shall make application on a form furnished by the village. A permit and inspection fee for a residential or commercial building sewer permit or for

an industrial building sewer permit shall be paid to the village at the time the application is filed. Such fee shall be set by the Village Board and placed on file at the office of the village clerk. (Neb. Rev. Stat. §17-925.02)

SECTION 7-307: SEWER CONTRACT; NOT TRANSFERABLE

A. The rules, regulations, and sewer rental rates hereinafter named in this section 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.

B. 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 village 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 regulation that the Village Board may hereafter adopt, the utilities superintendent or his agent may cut off or disconnect the water service from the building or premises of such violation. No further connection for water service to said building or premises shall again be made save or except by order of the superintendent or his agent.

C. 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 sell, dispose of, or move from the premises where service is furnished or if the said premises are destroyed by fire or other casualty, he or she shall at once inform the utilities superintendent who shall cause the water service to be shut off at the said premises. If the customer should fail to give notice, he or she shall be charged for sewer service monthly until the superintendent is otherwise advised of such circumstances.

(Neb. Rev. Stat. §18-503)

SECTION 7-308: INSTALLATION EXPENSE; TAP FEE

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner, who shall indemnify the village from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The customer, upon approval of his or her application for sewer service, shall pay a tap fee to the village, as set by the Village Board by resolution and placed on file in the village office, which compensates the village for the expense of processing the application and tapping the sewer main. The utilities superintendent 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 and shall pay all other costs of installation. (Neb. Rev. Stat. §18-503)

SECTION 7-309: REPAIRS AND MAINTENANCE

A. The village shall repair or replace, as the case may be, all pipe between the commercial main and the stop box. The village may require the owner of any property

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

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

(Neb. Rev. Stat. §18-1748)

SECTION 7-310: PLUMBER'S LIABILITY

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

SECTION 7-311: INSTALLATION OR REPAIR; PROCEDURE, MATERIALS

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

SECTION 7-312: INSTALLATION; INDEPENDENT CONNECTION; EXCEPTION

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

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

SECTION 7-313: INSTALLATION; UNLAWFUL CONNECTION; POLLUTED DRAINAGE

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

SECTION 7-314: SEWER RATES; REVIEW; SPECIAL RATES

A. All sewer customers shall be liable for the minimum rate provided by ordinance. Residential and commercial customers shall pay a basic service fee monthly and a volume charge per thousand gallons. Said charges shall consist of the operation, maintenance, and debt service costs.

B. The volume charge shall be determined for each user based on average winter water usage as determined by the normally scheduled water meter readings made in the months of December and February. The volume charge for any user which has not established a winter water usage rate shall be the median charge of all other users. The charge shall be levied to each property served by the sanitary sewer system, regardless of location, and shall be included with the statement for water service.

C. Any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance, or replacement of the treatment works shall pay for such increased costs. The charge to each such user will be as determined by the village's plant operation personnel and approved by the Village Board.

D. At least once every two years, the Village Board shall review the sewer user charge system in order to maintain its adequacy to pay the costs of operation and maintenance, including replacement, and the proportionality of charges among the users and user classes. Any excess revenues collected from a class of users shall be credited to that class for the next year and its rates will be adjusted accordingly.

E. The Village Board shall have the power by resolution to establish fair and reasonable special assessments to the sewer users of said village to apply only in special cases which are not covered by the schedule of rates set out herein.

(Neb. Rev. Stat. §18-509) (Am. Ord. No. 6-222, 11/7/05)

SECTION 7-315: BILLING AND COLLECTIONS

The village clerk shall bill the consumers, collect all money received by the village on the account of the Sewer Department, and faithfully account for and pay to the village treasurer all revenue collected. Billing, collection and termination procedures are set forth in Sections 7-103 and 7-104. (Neb. Rev. Stat. §17-540)

SECTION 7-316: MANHOLES

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

SECTION 7-317: DESTRUCTION OF PROPERTY

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

SECTION 7-318: PRIVATE SEWAGE DISPOSAL; PERMIT

A. Where a public sanitary or combined sewer is not available under the provisions herein, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

B. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the utilities superintendent. The application for such permit shall be made on a form furnished by the village, which the applicant shall supplement by any plans, specifications, and other information as deemed necessary by the superintendent. A permit and inspection fee shall be paid to the village clerk at the time the application is filed. Such fee shall be as set by resolution of the Village Board and placed on file in the office of the village clerk.

C. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the utilities superintendent. He shall be allowed to inspect the work at any stage of construction and in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the superintendent.

D. The type, capacity, location, and layout of a private sewage disposal system shall comply with the Nebraska Department of Environmental Quality Title 124 *Rules and Regulations for the Design, Operation and Maintenance of Septic Tank Systems*. No septic tank shall be permitted to discharge to any natural outlet.

E. At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this chapter within 60 days and the private sewage system shall be abandoned in accordance with Title 124(D).

F. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the village.

G. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the health officer or by state or federal law.

Article 4 – Solid Waste

(Ord. No. 6-604, 8/5/02)

SECTION 7-401: VILLAGE BOARD EMPOWERED TO ENTER INTO WASTE HAULING AGREEMENTS

The chairman and Village Board shall be empowered to enter into agreements to contract to provide services for the hauling and disposal of garbage and trash from the village.

SECTION 7-402: RATES

All users of services for the hauling and disposal of garbage and trash from the village shall be liable for the minimum rate provided by ordinance or resolution.

SECTION 7-403: WASTE CONTAINERS REQUIRED

All trash and garbage shall be placed in containers of 30 gallons or less or sacked in durable bags or of such nature that it can be easily placed in trucks, unless:

A. Such trash and/or garbage results from remodeling or razing small buildings or other situations not likely to reoccur more than once every five years at such location; or

B. Such trash and/or garbage is placed in a Dempster dumpster or similar containers provided by the customer.

SECTION 7-404: APPLIANCES AND AUTOMOBILES

Refrigerators, stoves, large appliances, and automobiles shall be disposed of by the customer at the dump area provided by the contractor one mile northeast of Newman Grove, Nebraska, or at such other lawful location.

SECTION 7-405: QUANTITY OF TRASH OR GARBAGE REQUIRED TO BE PICKED UP BY CONTRACTOR

The chairman and Village Board may from time to time determine by resolution the quantities of garbage or trash required to be taken per pickup by the contractor hauling the same.

SECTION 7-406: SERVICE TO NON-RESIDENTS

The village may provide garbage disposal and collection service to persons outside the corporate limits of the village. In the event any customer outside the village limits has not paid the service fee by the tenth day of the month following the month for

which service was provided, the village clerk shall notify the contractor to discontinue service to that person. Nothing herein shall be construed to obligate the village to provide garbage disposal and collection service to non-residents.

Article 5 – Penal Provision

SECTION 7-501: VIOLATION; PENALTY

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