

## **CHAPTER 7 – PUBLIC UTILITIES**

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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 such tax, rent or rates for the use and benefit of the water used or supplied to them by the water 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 taxes, rents or rates shall be paid and collected and such lien enforced in such manner as the board shall by ordinance direct and provide. (Neb. Rev. Stat. §17-538)

#### SECTION 7-102: UTILITIES DEPARTMENT; DEFINED

The village Water Department and Sewer Department shall hereafter, collectively, be known as the Utilities Department. (Ord. No. 2002-5, 3/19/02)

#### SECTION 7-103: SERVICE DEPOSITS

A. All customers who are provided water and/or sewer service by the village shall, prior to connection to and use of the water service, give a deposit to the village clerk as established by ordinance and filed at the village office.

B. In the event there is more than one dwelling unit served by a single meter, a deposit as set by the Village Board and filed at the village office shall be required for each dwelling unit served by the same water meter.

C. The village clerk shall record such deposit and give the utility customer a receipt for the deposit;

D. Based upon the completion of 24 consecutive months of full and timely payments of utility service charges, the deposit shall be refunded to the utility customer.

E. If the utility customer terminates water service from the village Utilities Department due to vacating of the premises where said utility service is utilized, the deposit shall be refunded to the customer after first being applied to any unpaid utility service charges/fees.

F. If a utility customer has been refunded his or her service deposit and thereafter the village reconnects water service to the premises of the said customer, who thereafter pays the reconnection fee, the village clerk shall collect from the utility customer a new service deposit.

(Ord. No. 82-2, 1/18/82) (Am. by Ord. No. 2002-5, 3/19/02)

### **SECTION 7-104: BILLING AND COLLECTIONS**

Charges for utility service shall be billed jointly on a monthly basis. Utility bills shall be mailed on or about the 5th day of each month and shall be due and payable on the 25th day of the month. Bills not paid by the 30th day of each month shall be deemed to be delinquent. Upon being deemed to be delinquent as herein defined, the village may discontinue utility service pursuant to the provisions of Section 7-110. Once discontinued, utility service shall not be reconnected except upon payment in full of the delinquent charges and upon further payment of a reconnection fee. The village may also take any action authorized by law to effect collection of the delinquent charges. (Ord. No. 2002-5, 3/19/02)

### **SECTION 7-105: RATES**

A. Pursuant to the authority granted under Section 7-101, rates for water and sewer usage during each monthly billing cycle of the village Utilities Department shall be as set by the Village Board and placed on file in the office of the village clerk for public inspection. All utility consumers shall be liable for the minimum rate provided by ordinance unless and until a consumer shall, by written order, direct the Utilities Department to shut off the water at the stop box, in which case he or she shall not be liable thereafter for water rental until the water is turned on again. (Neb. Rev. Stat. §17-540, 17-542)

B. Monthly user charges will be based annually on monthly water usage during the previous months of December, January, and February. If a user has not established a monthly user charge, the minimum rate will be used until such time as a rate is established. (Am. by Ord. Nos. 159-79, 8/8/79; 84-17, 9/17/84; 94-11, 6/7/94; 97-6, 9/16/97; 2002-5, 3/19/02)

C. The rates to be paid by rural users shall be 120% of the rate established from time to time for resident users. This multiplication factor applies to all consumption levels in the event that there are differing rates set for different volumes of use. (Neb. Rev. Stat. §17-540)

### **SECTION 7-106: LATE CHARGE**

There is hereby assessed on any fee or charge authorized by this article which remains unpaid after it becomes delinquent a late charge fee in addition to other charges designated herein. Said late charge shall be as set by resolution of the Village Board and placed on file in the office of the village clerk for public inspection. (Ord. No. 86-5, 6/16/86) (Am. by Ord. Nos. 89-8, 2/19/90; 98-19, 10/20/98; 2002-5, 3/19/02)

### **SECTION 7-107: DELINQUENT CHARGES; PAYMENT PLAN**

The village clerk is hereby authorized, in addition to all other remedies and provisions afforded by law, to enter into an agreement with customers and users of the village

utility services for the payment of charges which are delinquent under the ordinances of the village. Such deferred payment plan shall require monthly or semi-monthly payments, shall provide for payments over a period of no more than 24 months and shall require all other charges made to the customer to be paid prior to delinquency during the term of the agreement. The village clerk shall establish such other terms and conditions and provisions of the agreement as may be necessary and appropriate to safeguard the assets of the village and ensure payment of the agreement or termination of service in the event of non-payment. (Ord. No. 86-5, 6/16/86)

#### **SECTION 7-108: LIEN**

In addition to all other remedies, if a customer 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 furnished. Further provisions regarding liens and the lien process are found in Article 2 of this chapter. (Neb. Rev. Stat. §17-538, 17-925.01, 18-503)

#### **SECTION 7-109: REASONS FOR DISCONNECTION**

The village may disconnect utility service to any utility customer's premises for any of the following reasons or any other reason permitted by federal, state or municipal law:

- A. Failure to meet applicable provisions of federal or state laws or any rules and regulations thereof;
- B. Violations of the ordinances of the village or regulations pertaining to utility service;
- C. Nonpayment of past or present utility bills;
- D. Willful or negligent waste of utility service due to improper or imperfect pipes, fixtures, appliances or otherwise;
- E. Molesting equipment controlling or regulating the supply of utility service;
- F. Theft or diversion and/or use of utility service without payment therefor;
- G. Vacancy or abandonment of premises.

(Ord. No. 2002-5, 3/19/02)

#### **SECTION 7-110: DISCONTINUANCE OF SERVICE; NOTICE; PROCEDURE**

A. No public or private utility company, other than a municipal utility owned and operated by a village, furnishing water, natural gas, or electricity at retail in this state shall discontinue service to any domestic subscriber for nonpayment of any past due account unless the utility company first gives notice by first class mail or in person to

any subscriber whose service is proposed to be terminated. If notice is given by first class mail, such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days after notice is sent or given. Holidays and weekends shall be excluded from the seven days.

B. Prior to the discontinuance of service to any domestic subscriber by a village utility, the domestic subscriber upon request shall be provided a conference with the Board of Trustees. The board has established procedures to resolve utility bills when a conference is requested by a domestic subscriber. Such procedures, three copies of which are 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 and shall include a statement that the customer may arrange with the village clerk for an installment payment plan. The Board of Trustees shall notify the domestic subscriber of the time, place, and date scheduled for such conference.

C. This section shall not apply to any disconnections or interruptions of services made necessary by the village for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.  
(Neb. Rev. Stat. §70-1603, 70-1604)

**SECTION 7-111: DIVERSION OF SERVICES; METER TAMPERING;  
UNAUTHORIZED RECONNECTION; EVIDENCE**

A. Any person who connects any instrument, device, or contrivance with any pipe supplying water without the knowledge and consent of the village in such manner that any portion thereof may be supplied to any instrument by or at which the water may be consumed without passing through the meter provided for measuring or registering the amount or quantity passing through it, 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.

B. 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 water passing through it without the knowledge and consent of the village shall be deemed guilty of an offense.

C. When water service has been disconnected pursuant to Neb. Rev. Stat. §70-1601 to 70-1615 or Section 7-110 of this code, any person who reconnects such service without the knowledge and consent of the village shall be deemed guilty of an offense.

D. Proof of the existence of any pipe connection or reconnection or of any injury, alteration, or obstruction of a meter 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, injury, alteration, or obstruction is proved to exist.  
(Neb. Rev. Stat. §25-21,275 through 25-21, 278, 28-515.02)

**SECTION 7-112: 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 or tampering 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 or tampering.

B. In any civil action brought pursuant to this section, the village shall be entitled, upon proof of willful or intentional bypassing or tampering, 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 or tampering, 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 or tampering is proven to exist caused or had knowledge of such bypassing or tampering if the tenant or occupant (1) had access to the part of the utility supply system on the premises where the bypassing or tampering 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 or tampering is proven to exist caused or had knowledge of such bypassing or tampering if the customer controlled access to the part of the utility supply system on the premises where the bypassing or tampering 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, 25-21,277) (Ord. No. 83-10, 11/21/83)



## Article 2 – Liens

### SECTION 7-201: WATER AND SEWER USE CHARGES

All unpaid rates, charges, penalties, or assessments made, charged, or levied for the consumption or use of water and the sanitary sewer system pursuant to this chapter shall constitute a lien upon the real estate to which water is supplied or sanitary sewer service is provided. (Neb. Rev. Stat. §17-538, 17-925.01)

### SECTION 7-202: RECORDING

After a minimum of 40 days following the due date for all charges, rents, rates, assessments, taxes or the like for which liens may be filed pursuant to this article, the village clerk may file with the register of deeds of Saunders County a lien for such amount as may remain due and owing on the real estate to which the water or the sanitary sewer service was provided. Such lien may be filed regardless of whether the water service or sewer use has been discontinued for said property. The village clerk is authorized to pay such filing fees as may be required for said lien filing without further order or approval of the Board of Trustees.

### SECTION 7-203: FORM

Each lien shall contain the identity of the customer, the street address of the property to which the services were provided, the legal description of the real estate to which the lien attaches, the name of the titleholder of the property, an itemization of all charges and penalties for which the lien attaches, the dates for which the services were provided, any work performed or materials provided by the village and the date(s) and amount(s) of such work and materials, and the date when the amount covered by the lien was due and payable to the village. Such lien shall be under oath and signed by the village clerk.

### SECTION 7-204: NOTICE

At the time the village clerk files the lien with the register of deeds as hereinbefore provided, he or she shall provide notice to the customer at the customer's last known address as listed in the village records. If the owner of the property is other than the customer, the clerk shall provide separate notice to the owner of the real estate. Said notice shall be provided by registered mail, return receipt requested, and shall be directed to the last known address of the occupant and owner as appearing in the village records and on the county tax assessor's records.

### SECTION 7-205: COLLECTION

The village clerk shall maintain a record of all liens filed on behalf of the village pursuant to this article. Upon the filing of each lien and the termination of the service to the real estate involved, service may not be provided again to said real estate until the lien has

been satisfied in full pursuant to the terms of this article. If a lien which attaches to said real estate pursuant to the terms of this article has not been satisfied within one year from the date said lien was filed, the village attorney may commence proceedings for foreclosure of said lien.

#### **SECTION 7-206: INTEREST**

The amount identified in the lien as filed by the village clerk with the register of deeds shall bear interest at the maximum percentage rate per annum permitted under Neb. Rev. Stat. §45-101.03 and as that section may hereafter from time to time be amended or replaced.

#### **SECTION 7-207: PAYMENT**

Once a lien has been filed with the register of deeds pursuant to this article, service may not be restored to the subject real estate until such time as the village treasurer has received payment in full of the principal amount of the lien including any penalties and services and materials included in said lien; payment of all interest due on said lien pursuant to this article; payment of all filing fees and costs incurred by the village to provide the notices required by this chapter; and payment of a deposit which shall amount to twice the principal amount of the lien as filed and for which payment is being received. Except for the amounts therein designated, the deposit herein required shall be held pursuant to the terms of Section 7-103. (Am. by Ord. No. 86-5, 6/16/86)

#### **SECTION 7-208: ALTERNATE MEANS OF COLLECTION**

As an alternative means of collecting delinquent water and sewer use charges, the village clerk may certify to the Saunders County assessor all delinquent sewer use charges which exist on August 1 of each year and request the assessor to assess, collect and return the same in the same manner as other village taxes are assessed, collected and returned. Such collection method may include the collection of those charges for which a lien has been filed. This section is to be viewed as a cumulative remedy for the collection of delinquent and past due water and sewer charges rather than an alternative remedy. (Neb. Rev. Stat. §18-503)

#### **SECTION 7-209: DELINQUENCY; TENANTS, LESSEES**

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 60 days or more delinquent in the payment of water rent. (Ord. No. 86-5, 6/16/86)

## Article 3 – Water Department

### SECTION 7-301: OPERATION AND FUNDING

A. The village owns and operates the Water Department through the water/sewer operator. 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 water/sewer operator shall have the direct management and control of the Water Department and shall faithfully carry out the duties of the 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. §17-531, 17-534, 19-1305) (Am. by Ord. No. 97-6, 9/16/97)

### SECTION 7-302: DEFINITIONS

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

“Air gap” is the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle; used to prevent either backflow or backsiphonage.

“Atmospheric vacuum breaker” (nonpressure-type backsiphonage preventer) is used as protection for direct or indirect water connections to all types of polluted or contaminated liquids where the preventer is not subjected to back-pressure.

“Authorized” refers only to those sources of water and the fluids produced by them which are owned, operated and overseen by the village. No other source of water is authorized without specific action by the Board of Trustees.

“Backflow” means the flow of water or other liquids, mixtures of substances into the water distribution system from a source other than that authorized by the village as intended liquids, mixtures or substances of the public water supply system.

“Backsiphonage” shall mean the flowing back of water or other liquids, mixtures or substances into a water distribution system due to negative pressure in the piping of the water distribution system.

"Commercial user" shall mean a resident user who or which is engaged in the conduct of a business on the premises served under the water contract.

"Commercial service" means any utility consumer which is not a residential service.

"Consumer" means any and all users of the municipal water system, including all persons, firms or corporations whose premises are served thereby and all owners and tenants of real estate connected to said water system.

"Cross-connection" means any actual or potential connection or structural arrangement within a water distribution system through which it is possible to introduce into the public water supply system any water, liquids, mixtures or substances, other than that authorized by the village as the intended water, liquids, mixtures or substances of the public water supply system.

"Double check-valve assembly backflow preventer" is device used as a protection for all direct or indirect water connections through which foreign substances might enter the system in such concentrations as to constitute a nuisance or be aesthetically objectionable. Examples are foods, beverages, or other substances that do not constitute a health hazard.

"Hazardous connections" are water system connections which are not authorized by the village including:

- A. Connections to food processing lines, including but not limited to those carrying syrups, lard, beer.
- B. Connections to steam and steam boilers where the steam does not come in contact with toxic substances.
- C. McDaniel tees or steam clean-up connections in food plants, apartment house boilers, or pressing boilers where toxic compounds are not used.
- D. Connections to enclosed circulating systems, such as radiant-heating systems and refrigerated water systems where toxic compounds are not used.
- E. Connections which permit the mixing of water from the village water system with water or other fluids produced from a well or other source of water which is not owned, operated and authorized by the village.

"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.

"Nontoxic substance" means any substance of a nonpoisonous nature that may create a moderate or minor hazard to the domestic water system.

"Pressure vacuum breaker" (backsiphonage preventer) is a device used as a protection for direct or indirect water connections to all types of polluted or contaminated liquids where the preventer is not subjected to backpressure. This device may be installed for use under continuous line pressure.

"Reduced-pressure device" (backflow preventer) is a device used as a protection for direct or indirect water connections where the device may be subject to backpressure from toxic chemicals, sewage, or other lethal substances.

"Resident user" shall mean any person with whom the village contracts to provide water from the village water system to property which is located inside of the corporate limits of the village, as the corporate limits may from time to time exist.

"Residential service" means single-family dwellings, churches, and separately metered apartments.

"Rural user" shall mean any person with whom the village contracts to provide water from the village water system to property which is located outside of the corporate limits of the village, as corporate limits may from time to time exist.

"Rural user service" means any person with whom the village contracts to provide water from the municipal water system to property which is located outside of the corporate limits of the village, as corporate limits may from time to time exist.

"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.

"Toxic substance" is any substance (liquid, solid, or gaseous), including raw sewage and lethal substances that, when introduced into the water supply system, creates or may create a danger to the health and wellbeing of the consumer. Hazardous connections include flush valve, toilet, or direct connection to contaminated vessel or system.

"Wholesale service" means any user of water of the municipal water system pursuant to a contract entered into between the Village of Ceresco and said user.  
(Am. by Ord. Nos. 89-8, 2/19/90, 95-17, 12/19/95; 2001-3, 3/20/01; 2016-2, 12/20/16)

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**SECTION 7-303: MANDATORY HOOKUP; PRIVATE NON-VILLAGE WELLS**

A. All property located within the corporate limits located within 300 feet of a water main shall be required, upon notice by the Village Board, to hook up with the village water system. Nothing herein, however, shall require the village to permit the connection to the village water system by reason of property being located within 300 feet of a water main.

B. In the event any owner, occupant or lessee shall neglect, fail or refuse 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 to make such connection, 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.

C. 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. §17-537, 17-539) (Am. by Ord. No. 89-8, 2/19/90)

#### **SECTION 7-304: CONSTRUCTION OF WATER WELLS**

A. Construction of a water well of any kind, whether a sand point, a well drilled by cable or by rotation shall be prohibited within corporate limits or within one mile of said corporate limits unless the Village Board has approved said construction by a majority vote. The well constructor must obtain written permission of the Village Board before constructing the well. The board may place conditions and requirements prior to the issuance of a permit or upon the permit itself before the construction of a water well.

B. "Water well" shall mean any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for the purpose of exploring for ground water, monitoring ground water, utilizing the geothermal properties of the ground, for extracting water from or injecting water into the underground water reservoir. "Water well" shall not include any excavation made for obtaining or prospecting for oil or natural gas or for inserting media to repressure oil or natural gas-bearing formations regulated by the Nebraska Oil and Gas Conservation Commission.

C. The water well must meet the requirements of Title 178, Chapter 2 and Title 178, Chapter 12 of the Nebraska Administrative Code. (Ord. No. 87-1, 4/20/87) (Am. by Ord. No. 99-28, 8/17/99)

#### **SECTION 7-305: CONSUMER'S APPLICATION; SERVICE DEPOSIT; CONNECTION OUTSIDE VILLAGE LIMITS**

A. Every person or persons desiring a supply of water must make application therefor to the village clerk. Water shall not be supplied to any house or private service pipe except upon the order of the water/sewer operator.

B. All customers who are provided water service by the village shall, prior to the connection and use of the water service of the village, give a deposit to the village clerk as described in Section 7-103.

C. The Utilities Department shall not supply water service to any person outside the corporate limits without special permission from the Village Board; provided, the entire cost of laying mains, service pipe, and supply pipe shall be paid by the consumer except where a main already crosses the applicant's property, in which case the applicant shall not be required to pay the cost of laying mains. Nothing herein shall be construed to obligate the village to provide water service to nonresidents. (Neb. Rev. Stat. §17-537, 19-2701) (Ord. No. 158-79, 8/13/79) (Am. by Ord. No. 82-2, 1/18/82; 89-8, 2/19/90; 2002-5, 3/19/02)



**SECTION 7-306: WATER CONTRACT; NOT TRANSFERABLE**

A. The village through its Water Department may 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 upon the fulfillment of all conditions provided under this article. 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.

B. 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 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 any present 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 water/sewer operator or his agent may cut off or disconnect the water service from the building or premises or place of such violation. No further connection for water service to said building, premises, or place shall again be made save or except by order of said water/sewer operator 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 water/sewer operator is otherwise advised of such circumstances.

(Neb. Rev. Stat. §17-537) (Am. by Ord. No. 158-79, 8/13/79)

**SECTION 7-307: PROHIBITION OF LEAD PIPES, SOLDER AND FLUX**

Any pipe, solders or flux used in the installation or repair of any residential or nonresidential building which is connected to the public water supply system shall be lead free. For purposes of this section, "lead free" shall mean (A) solders and flux, not more than .2% lead and (B) pipe and pipe fittings, not more than 8% lead. (Neb. Rev. Stat. §71-5301) (Am. by Ord. No. 90-9, 8/20/90)

**SECTION 7-308: WATER METERS REQUIRED; LAWFUL USE**

A. Any customer desiring to be furnished with water from the village water system shall purchase a water meter from the village and maintain the same in good and proper working condition on each service line. Said water meter shall be of the standard and to the accuracy as determined and established by the Village Board. It shall

be presumed that water meters which are purchased from the village shall be of such standard and accuracy.

B. Before the installation of any new water meter, the consumer shall receive approval from the water/sewer operator for the location of the meter.

C. It is the responsibility of the consumer owner of the water meter to insure that the meter is installed and kept in continuing working condition, including the installation of a device or system which permits the meter to be read from the outside of the building, dwelling, or the structure wherein it is located.

D. The consumer shall have the responsibility of protecting the meter from freezing and be responsible for preventing any other form of interruption to the normal workings of said meter.

E. Anyone in violation of this section shall, in addition to the penalties provided for violations of this chapter, be deemed to be in violation of the water contract as described in Section 7-306 and subject to the remedies provided therein, including but not limited to the cutting off or disconnecting of water service for the building, dwelling, or structure wherein the meter is located.

(Ord. No. 158-79, 8/13/79) (Am. by Ord. No. 98-8, 7/21/98)

#### **SECTION 7-309: INSTALLATION; EXPENSE; TAP FEE**

All costs of providing water service from the main to the point of distribution at the structure being served shall be paid by the consumer. This cost shall include curb stops, meters, all labor and installation expenses, as well as any required deposit and tap fee. In the event that water service being provided necessitates the tapping of the water main, the said main shall be tapped only by authorized personnel and/or agents of the village; the customer shall pay the tap fee and the deposit required by the village prior to the tapping of the main line. (Neb. Rev. Stat. §17-542) (Am. by Ord. Nos. 158-79, 8/13/79; 94-3, 5/2/94; 95-1, 1/16/95; 98-21, 10/20/98)

#### **SECTION 7-310: INSTALLATION; EXPENSE; RURAL USER**

There is hereby assessed a tapping fee to each rural user to be paid at the time of the application for water as established from time to time by the Village Board. Said fee shall be filed in the village office for public inspection during normal business hours. In addition, the rural user shall pay the costs of material and labor for construction, tapping, connection, reconstruction, moving, repair, connection, and the maintenance or the repair of the service line. (Ord. No. 89-8, 2/19/90)

#### **SECTION 7-311: INSTALLATION OR REPAIR PROCEDURE**

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 drain-age. No

person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade and, during the night, warning lights. After service pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of 24 hours or more, the water/sewer operator shall have the duty to finish or correct the work and all expenses so incurred shall be charged to the consumer. 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 7-312: RURAL USER CONNECTIONS**

Connection to the village water system by a rural user shall be made in conformance with the following provisions. In the event any connection is made in violation of these provisions, it shall be deemed an unlawful act as well as a violation of the village water contract, warranting termination of service. All connections must comply with the following:

A. Each service which is connected to a saddle already placed on the water main shall reimburse the village for the cost of the saddle at the time application is made. This amount shall be in addition to all other fees and charges which may be assessed as a part of the connection fee.

B. Any domestic well owned or used by the rural user must be disconnected from all piping served by the village water system. This must be done in such a way as to assure that the village water provided is not blended or mixed with water from any source other than one operated, owned and specifically authorized by the village.

C. The village shall supply, at the rural user's cost, a meter, corporation stop, curb stop, back flow preventer and saddle.

D. Connection to the village water system shall be made by a service line no smaller than three-fourths inch diameter.

E. Connection to the village water system is subject to inspection by the village and must be done according to the ordinances and regulations of the village for making connections to water mains.

F. In the event the village discontinues use of any main located outside the corporate limits, the village will be under no obligation to continue to make water available to any rural user connected to the village water system via such main.

G. Rural users shall be limited to "normal residential consumption," which is defined as not exceeding 60,000 gallons per three-month billing period. The village

may impose substantial rate increases on water consumed in excess of "normal residential consumption."

H. Rural users shall be subject to all ordinances, resolutions, rules and regulations adopted by the village regarding use and operation of its water system, including but not limited to the operation and maintenance of a water meter and system protection devices, water use restrictions, termination of service, and payment of water use fees.

I. No more than one residential unit may be connected to a single water main tap.

J. All meters shall be remote-read meters only.  
(Ord. No. 89-8, 2/19/90) (Am. by Ord. No. 90-6, 4/16/90)

### **SECTION 7-313: METER READING; BROKEN METERS**

All water meters shall be read monthly. The Utilities Department shall read or cause to be read the said meters on or about the 25<sup>th</sup> of each month. In the event that a meter is broken or otherwise fails to register accurately the use of water by any customer, the customer shall be charged and shall pay a service fee which is an estimate of water consumption for the month in question. A customer with an inoperable water meter shall be so advised on his or her water statement. The notice to the customer shall also advise of the responsibility to have the meter fixed immediately or to incur penalties provided by ordinance. (Am. by Ord. No. 158-79, 8/13/79)

### **SECTION 7-314: NON-FUNCTIONING METER**

In the event that a user does not have a water meter on the service line or in the event, following notice, that a meter is inoperable, a meter again found to be inoperable upon routine reading as provided in Section 7-314, the customer shall be charged a water use fee as set by the Village Board and placed on file in the office of the village clerk for public inspection. (Ord. No. 158-79, 8/13/79) (Am. by Ord. No. 89-8, 2/19/90)

### **SECTION 7-315: REPAIRS AND MAINTENANCE**

The village shall repair or replace all pipe constituting water mains. The village shall repair or replace all water service pipe from the water main to and including the curb stop, which shall be at or near the individual water customer's property line. The water customer shall repair or replace all water service lines from the curb stop to the structure being served. (Neb. Rev. Stat. §17-537) (Am. by Ord. Nos. 158-79, 8/13/79; 94-3, 5/2/94)

### **SECTION 7-316: INSPECTIONS**

All installations or repairs of pipes require two inspections by the Utilities Department:  
(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 department 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 Utilities Department; provided, the said rules, regulations, and specifications have been reviewed and approved by the Village Board. (Neb. Rev. Stat. §17-537)

#### **SECTION 7-317: RIGHT OF ENTRY FOR INSPECTION**

Utilities Department personnel 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. (Neb. Rev. Stat. §17-537)

#### **SECTION 7-318: SINGLE PREMISES**

No consumer shall supply water to other families or allow them to take water from his or her premises 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 for the purpose of supplying water to another premises unless authorized by the Village Board. (Neb. Rev. Stat. §17-537)

#### **SECTION 7-319: 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 system. 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 Department.

#### **SECTION 7-320: 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 Fire Department under the orders of the fire chief or the assistant chief or employees of the Utilities Department to open or attempt to open any of the hydrants and draw water from the same or in any manner to interfere with the hydrants.

#### **SECTION 7-321: FLUORIDE PROHIBITED**

No fluoride or fluoride compound shall be added to the water supply of the village.

#### **SECTION 7-322: 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 7-323: EMERGENCY USE RESTRICTIONS**

A. The chair of the Board of Trustees is hereby authorized to issue a declaration of a water emergency in the event, in his or her discretion, the available water supply to the village water system is or is at risk of becoming inadequate to provide water supply for the normal unrestricted use of water within the village water system and necessary reserves for fire protection.

B. The declaration of water emergency shall identify the use restrictions to be implemented without further authority from the Board of Trustees and may order:

1. An alternate outside watering schedule in which properties located on the side of the street bearing even-numbered house numbers are prevented from watering outside plants on odd-numbered days, and the properties located on the side of the street bearing odd-numbered house numbers are prevented from watering outside plants on the even-numbered days.
2. Restrictions barring the watering of outside plants, except patio plants. For purposes of this section, "patio plants" shall mean those plants which are growing in pots or containers and not located inside a dwelling or other structure.

C. The chair shall provide written notice of the declaration of water emergency and the restrictions implemented to all water system users. The police chief and village police are hereby authorized and directed to enforce the restrictions implemented under this section.

D. Any violation of the restrictions imposed is a violation punishable as provided in this chapter. In addition, in the event violations of the restrictions imposed occur more than two times under the same emergency declaration, the third offense shall be viewed as a breach of the water contract between the property owner and the village. In such event, the water/sewer operator shall proceed to cut off or disconnect the water service from the building or premises where the third offense occurred.

E. Service will be restored only upon the user depositing an additional deposit and fees and paying a fee for disconnecting and reconnecting the service. Such fees shall be set by resolution of the Village Board and filed in the village office for public inspection. If any digging is required to disconnect or reconnect the service, the user shall also pay the actual costs incurred in the digging. Upon the fourth offense on the same property, service shall be disconnected and shall not be restored during the water emergency.

F. Upon the end of the water emergency, the service may be reconnected upon payment by the user of the charges outlined for reconnection after a third offense. Any user wishing to object to the disconnection of service under this section may request a meeting with the Village Board, provided the request of such meeting shall not delay

the implementation of the disconnection of service.  
(Ord. No. 88-8, 8/15/88)

**SECTION 7-324: BACKFLOW/BACKSIPHONAGE PREVENTION; UNLAWFUL CONNECTIONS; NEW INSTALLATIONS REPAIRS**

No installation or repair within the water distribution system, including the customer's water distribution system, shall be made in such a manner as to constitute a hazardous connection as defined in this code.

**SECTION 7-325: BACKFLOW/BACKSIPHONAGE PREVENTION; PREVENTION DEVICES REQUIRED**

A backflow or backsiphonage prevention device approved by the water/sewer operator shall be installed at the customer's expense in the customer service pipe when any of the following conditions are found by the water/sewer operator:

- A. Premises having an auxiliary water supply;
- B. Premises in which, in the opinion of the water and water/sewer operator, substances are handled in a manner so as to create an actual or potential hazard to the public water supply;
- C. Premises having existing or potential internal cross-connections;
- D. Premises where, in the opinion of the water and water/sewer operator, it is impossible or impractical to make a complete cross-connection premises survey;
- E. Premises having more than one customer service pipe.

**SECTION 7-326: BACKFLOW/BACKSIPHONAGE PREVENTION; INSTALLATION INSPECTIONS**

A. The water and water/sewer operator, at the expense of the village, may inspect any premises to determine if a backflow device is required and to what level of protection will be necessary to protect the public health and safety. All inspections shall be at reasonable times of day.

B. In order to inspect any premises, the water and water/sewer operator shall give notice setting forth a proposed date and time to the customer at least 10 working days in advance by first class mail, return receipt requested. If the customer cannot make the premises available for inspection on that date and time, the customer shall contact the water/sewer operator to arrange a date and time for inspection. If the customer cannot agree on a date and time within 14 days of the date set forth in the notice, a backflow or backsiphonage device shall be installed within 30 days of the date of receipt of the notice of inspection as identified on the return receipt.

**SECTION 7-327: BACKFLOW/BACKSIPHONAGE PREVENTION; NEW METER INSTALLATION; MAINTENANCE**

All backflow and backsiphonage prevention devices shall be installed in such a manner that the device shall be accessible. Backflow and backsiphonage prevention devices shall be maintained in good working condition by the customer at the customer's expense. Backflow and backsiphonage prevention devices designed to be tested shall be tested for proper operation annually or when necessary in the opinion of the water and water/sewer operator. Actual testing shall be at the expense of the village. Any required maintenance or repairs shall be at the expense of the customer and subject to the approval of the water/sewer operator. If testing shall require entry into the premises, the water/sewer operator shall give notice setting forth a proposed date and time to the customer at least 10 working days in advance by first class mail, return receipt requested. If the customer cannot make the premises available for inspection on that date and time, the customer shall contact the water/sewer operator to arrange another date and time. Failure to permit access as and when requested by the water/sewer operator shall be deemed a breach of the water contract permitting termination of the contract by the village.

**SECTION 7-328: CONTROL AND REGULATION OF LAND AFFECTING MUNICIPAL WATER SOURCE**

A. Pursuant to the authority granted the village by Neb. Rev. Stat. §17-536, the Board of Trustees hereby finds that it is in the best interest of and serves the public's purpose to have regulations governing and controlling the use of land upon which the village has water rights for the development and production of village water so as to prevent any pollution or injury to the source of water which supplies the village water system.

B. This ordinance shall control only those areas which lie within 15 miles of the corporate limits of the village.

C. The use of any land upon which the village owns any water rights, whether by easement, deed, or other instrument, for the production of village water or which would permit the production of a village water supply in the future, shall be restricted in the following manners:

1. No waste disposal systems, whether the waste is in the form of a sanitary land fill, sanitary sewerage, or a facility commonly known as a dump, shall be located on any such property; provided, any such facilities that currently exist shall be allowed to continue.
2. The expansion or replacement of any facility identified in subsection (1) existing at the time of the adoption of the ordinance shall be subject to the approval of the Board of Trustees.



3. No foreign chemical not naturally found in the ground or air shall be applied to the surface or subsoil of the subject property, excepting only those which are approved by appropriate governmental agencies for normal use in agricultural activities.
4. Additional buildings or structures shall not be placed on the property without obtaining approval of the Board of Trustees. Neither the village zoning nor building regulations shall apply to any construction unless the construction is otherwise subject to the jurisdiction of the village by authority of other statutes, regulations, or ordinances. In the event the proposed construction does not interfere with the use of the village of its water rights, the board shall approve any such request.

D. Any use of the property in a fashion which would or could reasonably be expected to impact on the quality of the ground water will be subject to the approval of the Village Board of Trustees.

(Neb. Rev. Stat. §17-536)

**SECTION 7-329: WELLS AND OTHER UNDERGROUND FACILITIES; DISTANCE FROM VILLAGE WATER SOURCES**

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. Any of the following facilities, acts or events located within the specified distance shall be defined as a nuisance for purposes of this subsection:

Water well	1,000 feet
Sewage lagoon	1,000 feet
Land application of village/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

**SECTION 7-330: WELLHEAD CAPTURE ZONE; STRUCTURE OR ACTIVITY; RESTRICTIONS; PENALTY**

A. Pursuant to the rules and regulations of the Nebraska Department of Health and Human Services and the Lower Platte South NRD, the following are areas in which a need exists for regulations regarding the location of existing and future potential sources of pollution or injury to the public water supply of the village, hereinafter called the Wellhead Capture Zone, to wit (all in Saunders County, Nebraska):

1. The SE Quarter of the SE Quarter of Section 16-13-7;
2. The W Half of the SE Quarter of Section 16-13-7;
3. The SW Quarter of Section 16-13-7, lying E of U.S. Highway 77;
4. The S Half of the SE Quarter of Section 17-13-7;
5. The NE Quarter of Section 20-13-7;
6. The NE Quarter of the SE Quarter of Section 20-13-7;
7. The N Half of the NE Quarter of Section 21-13-7;
8. The SW Quarter of the NE Quarter of Section 21-13-7;
9. The NW Quarter of Section 21-13-7;
10. The N Half of the SW Quarter of Section 21-13-7.

B. For purposes of this section, certain terms or words used herein shall be interpreted as contained within this section. The present tense includes the future tense; the singular number includes the plural and the plural number includes the singular. Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this section its most reasonable application.

1. "Water well" shall mean any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for the purpose of exploring for ground water, monitoring ground water, utilizing the geothermal properties of the ground or extracting water from or injecting water into the underground water. It shall not include any excavation made for obtaining or prospecting for oil, natural gas, minerals, or products mined or quarried or inserting media to repressure oil or natural gas bearing formations.
2. "Feedlot" shall mean the feeding, farrowing or raising of cattle, swine, sheep, poultry or other livestock in a confined area where grazing is not possible, where confinement is for more than six months in any one calendar year, and where the number of animals so maintained exceeds the animal units per acre as defined below. "Feedlot" shall include but not be limited to the area of the confined feeding operation, the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities. Animal units (AU) are defined as:

1.0	Steer, 1000 lb.	= 1 AU
0.7	Dairy cattle	= 1 AU
55.5	Turkeys	= 1 AU

100.0	Poultry	= 1 AU
3.3	Hogs	= 1 AU
3.3	Sows	= 1 AU
5.0	Nursery pigs	= 1 AU
0.5	Horses/donkeys	= 1 AU
10.0	Sheep	= 1 AU
0.5	Exotic animals (llamas, ostriches, emus, etc.)	= 1 AU

- a. For a parcel of contiguous real estate of less than 40 acres: 1 AU per acre or fraction thereof.
  - b. For a parcel of contiguous real estate of over 40 acres but less than 80 acres: 2 AU per acre or fraction thereof.
  - c. For a parcel of contiguous real estate of over 80 acres: 3 AU per acre or fraction thereof.
3. "Chemical or petroleum product storage" shall mean the storage of chemical and/or petroleum products for which a permit is required from the Nebraska Department of Environmental Quality or its successor.

C. It shall be unlawful for any person to place, construct, or replace any of the following structures or conduct any of the following activities within the aforementioned Wellhead Capture Zone, except as may be provided herein, to wit:

CATEGORY

Water well
Sewage lagoon
Land application of village/industrial waste material
Feedlot or feedlot runoff
Underground disposal system (septic system, etc.)
Corral
Pit toilet, vault toilet
Wastewater holding tank
Sanitary landfill/dump
Chemical or petroleum product storage
Sewage treatment plant
Sewage wet well
Sanitary sewer connection
Sanitary sewer manhole
Sanitary sewer line

D. The placing, constructing or replacing of any structure or activity as set forth in subsection (C) of this section, hereinafter termed a "subsection (C) structure or activity," within the aforementioned Wellhead Capture Zone shall not be permitted unless a

permit approved by the Village Board has been obtained. The owner of any subsection (C) structure or activity shall have the burden of establishing the existence and use of said structure or activity at the time of the effective date of this section.

E. The chair and Board of Trustees may consider the placing, constructing, or replacing of a subsection (C) structure or activity within the Wellhead Capture Zone. Said placement, construction, or replacement shall be allowed only if the following procedure is utilized:

1. An application must first be filed with the village clerk along with supporting information indicating why approval would not adversely impact the village's water supply.
2. The chair and board shall refer the application and supporting information to its engineer for evaluation and report.
3. In addition thereto, the chair and board may submit the application and supporting information, together with the engineer's report, to the Lower Platte South Natural Resources District for its recommendations.
4. The chair and board shall consider the supporting information, its engineer's report, the recommendations of the Lower Platte South NRD, and any additional information submitted by the applicant. In reaching its decision on whether to allow the placement, construction, or replacement of a subsection (C) structure or activity as above defined, the chair and board must act to prevent all sources of possible or likely water pollution or injury. Preference for approval will be given to subsection (C) structures or activities that do not disturb any water-bearing strata.
5. No subsection (C) structure or activity shall be commenced after the effective date of this section without the approval of the chair and board .

F. Subsection (C) structures or activities in existence and use in the Wellhead Capture Zone as of the effective date of this section shall continue to be permitted unless such continued existence or use, in the opinion of the chair and Board of Trustees, presents a hazard to the quality or quantity of the drinking water available for public use as the village's drinking water. If the chair and board determine that an existing subsection (C) structure or activity presents a hazard to the quality or quantity of the drinking water available for public use as the village's drinking water, the Board of Trustees shall authorize the chair to notify the owner of the subsection (C) structure or activity to cease and desist said structure or activity. If the owner of the subsection (C) structure or activity desires to continue said structure or activity, said owner shall proceed pursuant to subsection (E) of this section. If said owner does not cease and desist said subsection (C) structure or activity pursuant to said notice, the chair may proceed pursuant to subsection (G) of this section against said owner and/or the subsection (C) structure or activity.

G. Any person found violating any provision of this section shall be subject to a fine as set by the Village Board by resolution and placed on file in the office of the village clerk for public inspection. The continuation of a violation of this section shall be deemed an additional crime for every 24 hours of such continued violation. In addition, the village may obtain injunctive relief and sue for damages and remediation, and pursue any other remedy available to it under the laws of the State of Nebraska or other authority having jurisdiction over such matters.

(Ord. 97-4, 10/21/97) (Am. by Ord. No. 2001-4, 3/20/01)

## Article 4 – Sewer Department

### SECTION 7-401: OPERATION AND FUNDING

A. The village owns and operates the Sewer Department through the water/sewer operator. 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 fund and shall remain in the custody of the village treasurer.

B. The water/sewer operator shall have the direct management and control of the Sewer Department and shall faithfully carry out the duties of the 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) (Am. by Ord. No. 99-22, 4/20/99)

### SECTION 7-402: 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 two miles 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 subsequent provisions of this article.

C. It is hereby declared to be unlawful for the owner of any lot or parcel of ground in the village to permit or maintain any privy vault, cesspool, or other receptacle for human excrement not connected with and drained by the village sewer system.

### SECTION 7-403: HOOKUP TO SYSTEM

A. The village may furnish sewer service to persons within its corporate limits whose premises are not within 300 feet of the said public sewer with 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 persons whose property line is not within 100 feet of the said public sewer.

B. Upon written notice by the water/sewer operator, the property owner, occupant, or lessee shall without delay cause the said building to be connected with the sewer system and equipped with inside sewerage facilities. Every building hereafter erected shall be connected with the sewer system at the time of its construction.

C. In the event that any property owner, occupant, or lessee shall neglect, fail, or refuse to make such a connection with the public sewer within a period of 10 days after notice has been given to him or her to do so by registered mail or by publication in a newspaper in or of general circulation in the village, the Village Board shall have the power to cause the same to be done, to assess the cost thereof against the property, and to collect the assessment thus made in the manner provided for collection of other special taxes and assessments.

#### **SECTION 7-404: SERVICE TO NONRESIDENTS**

A. The Utilities Department shall not supply sewer service to any person outside the corporate limits without special permission from the Village Board. 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 nonresidents. (Neb. Rev. Stat. §19-2701)

B. Any person whose premises are located outside the corporate limits of the village who desires to install a house or building sewer that will be connected with the village sewer system shall file a written application with the village clerk for a permit for such connection, setting forth the name of the owner, occupant, or lessee of the premises, the use to which the premises are devoted, and such other information as the board may require.

#### **SECTION 7-405: APPLICATION FOR PERMIT; SERVICE DEPOSIT**

Any person wishing to connect with the sewer system shall make an application to the water/sewer operator, who may require any applicant to make a service deposit in such amount as provided in Section 3-103. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the village clerk. Sewer service may not be supplied to any house or building except upon the order of the water/sewer operator. (Neb. Rev. Stat. §19-2701)

#### **SECTION 7-406: 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 water/sewer operator 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 water/sewer operator 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 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 water/sewer operator. If the customer should fail to give notice, he or she shall be charged for that period of time until the water/sewer operator is otherwise advised of such circumstances.

(Neb. Rev. Stat. §18-503)

#### **SECTION 7-407: INSTALLATION EXPENSE; TAP FEE**

A. The customer, upon approval of his or her application for sewer service, shall pay any required tap fee and/or service deposit to the village before beginning installation.

B. The customer shall be required to obtain all of the required materials and pay for all of the costs of labor for installing said service, including the tapping of the main; provided, such installation shall be under the direct supervision of the water/sewer operator and shall be done in a manner and with materials approved by said water/sewer operator and in addition thereto, the tapping of the sewer main shall be done only by authorized personnel and/or agents of the village.

(Neb. Rev. Stat. §18-503)

#### **SECTION 7-408: USE OF EXISTING SEWERS**

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

#### **SECTION 7-409: INSTALLATION OR REPAIR; PROCEDURE**

A. 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.



B. After the house sewer is laid, the public ways and property shall be restored to good condition. If the excavation in the public ways and property is left open or unfinished for a period of 24 hours or more, the water/sewer operator 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.

C. All installations or repairs of pipes require two inspections by the water/sewer operator: (1) when connections or repairs are complete and before the pipes are covered and (2) after the dirt work is completed and the service restored. It is the customer's responsibility to notify the water/sewer operator at the time the work is ready for each inspection.

#### **SECTION 7-410: INSTALLATION; MATERIALS, PROCEDURES**

All installation of any part of the sewer system shall be done under the supervision of the water/sewer operator and strictly in accordance with the rules, regulations, and specifications on file with the village clerk 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 sewer 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) (Ord. No. 90-9, 8/20/90)

#### **SECTION 7-411: DIRECT CONNECTION; SPECIFIC CONDITIONS**

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 7-412: FEE STRUCTURE; CLASSIFICATION**

For the purpose of rental fees, the Village Board may classify the customers of the Sewer Department, provided that such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers. (Neb. Rev. Stat. §17-925.02)

#### **SECTION 7-413: 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.

#### **SECTION 7-414: REPAIRS AND REPLACEMENT**

A. The village may require the owner of any property which is within the village 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.

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 water/sewer operator shall complete the work and charge the cost of such repairs or replacement to the customer.

(Neb. Rev. Stat. §18-1748) (Am. by Ord. Nos. 158-79, 8/13/79; 84-16 9/17/84)

#### **SECTION 7-415: MANHOLES**

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

#### **SECTION 7-416: 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.

#### **SECTION 7-417: DISCHARGE OF WATERS; PROHIBITED**

It shall be unlawful for any person to discharge or cause to be discharged any storm water, surface water, ground water, roof runoff surface drainage or polluted industrial process waters into the sanitary sewer. Storm waters 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 water/sewer operator. Industrial cooling water or unpolluted process water may be discharged, on approval of the water/sewer operator, 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 determined by the water/sewer operator with the approval of the Village Board.

**SECTION 7-418: HAZARDOUS DISCHARGES; PROHIBITED**

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

A. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

B. 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 sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in waters of the sewage treatment plant, including but not limited to cyanides in excess of 2 mg/l as CN in the wastes as discharged to the public sewer.

C. 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.

D. Solid or viscous substances in quantities or of such size as to be capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works 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 fleshing, entrails and paper dishes, cups, mild containers, etc., either whole or ground by garbage grinders.

E. Further, specific prohibitions, options for handling hazardous discharges, compliance procedures and penalties for violations shall be as provided by the requirements of applicable regulations, laws, codes, and ordinances.

## Article 5 – Solid Waste

### SECTION 7-501: GENERAL PROVISIONS

A. The removal and disposal of solid waste within the village, under the provisions of this article, is hereby made compulsory and universal for the maintenance, health and sanitation of the village and its inhabitants.

B. The village chair shall have supervision and control over the collection of all solid waste within the village and shall have supervision and control of the manner of the disposal thereof as established by the village. The chair may delegate this responsibility to the appropriate department of the village.

C. The village, in order to more effectively promote and protect the public health and public welfare, hereby reserves unto itself the exclusive right to collect all solid waste or any portion thereof in the village at such times and for such periods as in its judgment is in the best interest of the village; provided, however, the village may grant to one company the exclusive right and privilege to collect, for hire, solid waste from residential units, group dwelling units, commercial units and village units within the village, pursuant to terms and conditions set forth in this article. The term shall not extend beyond the term of the Board of Trustees which granted said exclusive right and privilege to collect solid waste, or any portion thereof, within the village pursuant to the terms and conditions as set forth in this article.

### SECTION 7-502: DEFINITIONS

For the purpose of this article, the following terms, phrases, words, abbreviations and their derivations shall have the meanings herein given. Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this article its most reasonable application.

“Alley” See “street/alley” below.

“Board of Trustees” shall mean the governing body of the village.

“Bulky waste” shall mean large appliances, pieces of furniture or waste materials other than demolition debris or hazardous waste, with a weight or volume greater than that allowed for residential-type containers.

“Chair” shall mean the chief executive officer of the village.

“Commercial unit” shall mean all those entities that are commercial in nature and located generally in the commercially zoned areas of the village; shall also include schools, hospitals, and governmental facilities, except the village, religious establishments, charitable institutions, hotels and motels, and other like entities.

“Company” shall mean any entity that collects and transports solid waste for hire, whether hired by a singular source/generator of solid waste, or multiple sources/ generators, and whether collection and transportation is on a daily, weekly, or other periodic or irregular basis within the village.

“Demolition debris” shall mean the portion of solid waste which includes all discarded or unwanted material or waste material from construction, remodeling, and repair operations on houses, commercial buildings, and other structures, including but not limited to excavated earth, stones, brick, plaster, lumber, concrete, and waste parts occasioned by installations and repairs, and all combustible and noncombustible waste material resulting from the demolition of structures, roadways, or other paved surfaces but excluding garbage, refuse and hazardous wastes.

“Garbage” shall mean rejected food wastes, including waste accumulation of animal, fruit, or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetables, and dead animals rejected by rendering plants.

“Group dwelling unit” shall mean any boarding or lodging houses or apartment buildings which have living quarters for four or more family units, but shall not mean a hotel or motel.

“Hazardous waste” shall mean that portion of solid waste which because of quantity, concentration or physical, chemical, or infectious characteristics may:

- A. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating irreversible illness; or
- B. Pose a substantial present or potential hazard to human or animal health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

“Industrial unit” shall mean all those entities that are industrial in nature and located in industrially zoned areas of the village.

“Junk” shall mean old scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber debris, waste, dismantled or wrecked automobiles, or parts thereof and other old or scrap ferrous or nonferrous material.

“Limited landfill” shall mean a type of operation in which only tree limbs, shrubbery, bushes and other similar organic waste, including garden vegetative material and yard waste may be disposed of on a specified parcel of land and operated and maintained in such a manner as to present no danger to the health and safety and welfare of human beings.

"Municipal unit" shall mean the village and shall include but not be limited to the following locations of the village: village hall, wastewater treatment facility, public parks, senior citizens' center, fire hall, and the central business district public trash containers.

"Person" shall mean any person, firm, partnership, association, corporation, limited liability company or organization of any kind.

"Refuse" shall mean putrescible and nonputrescible solid wastes, except body wastes, and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and solid market and industrial waste.

"Refuse vehicle" shall mean any vehicle with or without a packing unit or mechanism used to collect, haul, or convey solid waste.

"Residential unit" shall mean any building or portion thereof, including a mobile home, used as living quarters for at least one family unit but not more than three family units.

"Rubbish" shall mean nonputrescible solid waste, excluding ashes, consisting of both combustible and noncombustible waste, such as paper, cardboard, tin cans, yard waste, wood, cut trees and/or tree branches and shrubbery, glass, bedding, crockery, or litter of any kind that will be a detriment to the public health and safety.

"Solid waste" shall mean any garbage, refuse, or sludge from an air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, and mining operations, and from community activities, but shall not include solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Clean Water Act, as amended, 33 U.S.C. 1251 et. seq., or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 68 Stat. 923.

"Solid waste facility" shall mean any site owned and operated or utilized by any person for the collection, source preparation, storage, transportation, transfer, processing, treatment, or disposal of solid waste, operated pursuant to requirements of the State of Nebraska and any department or agency thereof.

"Solid waste system" shall mean any equipment, vehicles, facilities, personnel, or contractors utilized for the purpose of collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid wastes.

"Street/alley" shall mean the surface of any public street, right-of-way, road, highway, freeway, bridge, path, alley, court, sidewalk, parkway, or drive now or hereafter existing as such within the village.

"Trash" shall mean that portion of solid waste which includes rejected food waste, including waste accumulation of animal, fruit, or vegetable matter used or intended for

food or that attend the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetables and dead animals rejected by rendering plants, paper, cardboard, tin cans, wood, glass, crockery, or litter of any kind that would be a detriment to the public health and safety or old scrap ferrous or non-ferrous material but shall not include any of the following:

- A. Hazardous waste as defined by Neb. Rev. Stat. §81-1502(25);
- B. Yard waste;
- C. Trees or shrubs;
- D. Tires;
- E. Bulky waste that will not fit into a 35-gallon can.

“Village” shall mean the Village of Ceresco, Nebraska.

“Yard waste” shall mean grass and leaves.  
(Ord. No. 2001-5, 4/2/01)

### **SECTION 7-503: COLLECTION AND DISPOSAL**

A. It shall be unlawful for any person, except the village, the holder of a right and privilege hereunder, or any person or industrial unit which lawfully collects and hauls his, her or its own solid waste or any portion thereof to deliver said waste:

1. To a solid waste facility with which the village has a contract, either oral or written;
2. To an entity that recycles or reuses any portion of the person's solid waste;
3. To a limited landfill maintained by the village to collect and/or dispose of the solid waste or any portion thereof, except as provided in this article.

B. All solid waste collected within the village shall be disposed of in a solid waste facility with which the village has a written or oral contract or with which a company and/or companies have a written or oral contract.

C. It shall be unlawful for any person to cause or suffer any solid waste to be discharged out of or flow from any premises owned or occupied by said person to be left in or thrown into, deposited, or placed upon any street, public grounds, vacant lot, or other place within the village, other than on the designated day for the collection of solid waste from said premises.

D. It shall be unlawful for any person to transport solid waste or any portion thereof from any private premises and deposit the same in any public receptacle provided for the deposit of solid waste or any portion thereof which is located on any street, park, or other publicly owned property.

### **SECTION 7-504: RESIDENTIAL UNITS**

A. It shall be the duty of every owner, agent, or manager of a residential unit to

provide and maintain one or more of the following receptacles or containers for the holding of all trash generated from said residential unit:

1. *Garbage Can*. A container or receptacle constructed of a metal treated to prevent rusting or heavy duty plastic of substantial construction, with a matching overhanging, tight-fitting lid and provided with handles sufficient for safe and convenient handling. Such receptacles or containers shall be water-tight and fly-tight with a capacity of not more than 35 gallons and a loaded weight of no more than 50 pounds, and shall be kept in serviceable condition at all times.
2. *Toter*. A container or receptacle with a capacity not to exceed 100 gallons which shall have a lid so constructed as to prevent insect and rodent entry. It shall have a wheel or wheels and a handle for easy and safe mobility and shall be water-tight.

B. A sufficient number of containers shall be provided to store trash prior to removal from the residential unit. Such containers or receptacles shall be kept on the premises in a place accessible and convenient for the collection thereof and kept in a sanitary and serviceable condition. All containers used for trash shall be kept covered or closed to prevent the entrance of insects and rodents. The location of the containers or receptacle shall be kept clean and well-maintained.

C. In addition to the aforementioned containers, the village may require every owner, agent, or manager of a residential unit to provide yard waste containers or other containers of suitable, two-ply moisture resistant materials that will not adversely impact composting. Yard waste may also be contained in separate garbage cans or toters, provided that such containers shall have suitable, tight-fitting lids, be watertight and fly-tight, and be kept in serviceable condition at all times.

#### **SECTION 7-505: GROUP DWELLING, COMMERCIAL OR INDUSTRIAL UNITS**

A. The owner, agent, or manager having charge of a group dwelling unit and/or commercial unit and/or industrial unit shall furnish the same with containers or receptacles for solid waste for the purpose of receiving such wastes from their place of business. Such receptacles or containers shall comply with all the specifications set forth in Section 7-504(B) above.

B. If the group dwelling unit and/or commercial unit and/or industrial unit establishment disposes of infectious solid waste materials, the waste receptacle shall be provided with a locking assembly so as to maintain controlled access to the container for depositing and removing the infectious solid waste.

C. Solid waste accumulated by a group dwelling unit and/or commercial unit and/or industrial unit establishment shall be removed from the group dwelling unit and/or commercial and/or industrial establishment's premises at intervals necessary to



maintain proper sanitary conditions but not less than once a week.

D. Any company may provide one or more containers for solid waste for its group dwelling unit and/or commercial unit and/or industrial unit customers.

**SECTION 7-506: VILLAGE UNITS**

The village shall furnish containers or receptacles for its solid waste or any portion thereof. In addition thereto, any company may provide one or more containers for solid waste for the village. Each container so furnished shall have thereon the name and telephone number of the company furnishing said container.

**SECTION 7-507: LIMITED LANDFILL**

The village may provide a limited landfill for the disposal of tree limbs, shrubbery, bushes and other similar organic waste, including garden vegetative material and yard waste accumulated from within the village.

**SECTION 7-508: BURNING AND COMPOSTING SITE; FEE**

A. To provide a fee for the management and operation of the site utilized by inhabitants and rural water users of the village for the burning of brush, tree limbs, and other wood-related products and for the composting of vegetative material, there shall be added onto the statements of all village water consumers, as a surcharge, an amount as set by the Village Board and kept on file in the office of the village clerk. Said surcharge shall be collected pursuant to applicable ordinances of the village.

B. The surcharge to be paid by rural water users of the village shall be 120% of the surcharge established from time to time for water users that are inhabitants of the village.

C. Pursuant to Neb. Rev. Stat. §17-540 and 17-609, the village clerk is directed to transfer said monies raised by said surcharge pursuant to this section to the general fund of the village for the maintenance and operation of said aforementioned site.  
(Am. Ord. No. 2018-4, 9/18/18)

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**SECTION 7-509: CONTRACTOR; COMPLIANCE WITH ARTICLE**

Any company to which the village has granted the exclusive right and privilege to collect, for hire, solid waste or any portion thereof from one or more units located within the village pursuant to this article, in accepting said exclusive right and privilege agrees to comply with the terms and conditions of this article.

**SECTION 7-510: CONTRACTOR; REQUIREMENTS**

A. The company shall operate and maintain its business in full compliance with all applicable state statutes, federal laws and all rules and regulations of any agency having regulatory authority over the company or its business.

B. The company shall maintain a business office or agent to which its customers may telephone during regular business hours without incurring added message or toll

charges so that solid waste service shall be promptly available. Should a customer have an unresolved complaint regarding solid waste service, the customer shall be entitled to meet jointly with a representative of the village and a representative of the company within 30 days to fully discuss and resolve such matters.

C. Prior to beginning operations in the village, the company that collects trash from residential units, group dwelling units, commercial units and/or the municipal unit, shall file with the village a schedule of tariffs on a form to be furnished said company by the village, that shall include all fees, charges and rates to be charged during the term of the exclusive right to collect trash hereunder.

D. The company shall not, as to its rates, charges, service facilities, rules, regulations or in any other respect, make or grant any preference or advantage to any person nor subject any person to any prejudice or disadvantage; provided, nothing in this article shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification would be entitled.

#### **SECTION 7-511: CONTRACTOR; OCCUPATION TAX ON VEHICLES**

There is hereby levied an annual occupation tax on each vehicle owned, operated, or utilized by any company to provide for the transport for hire of solid waste or any portion thereof in the village. Said tax shall be set by the Village Board and filed in the office of the village clerk for public inspection. As a condition of licensing, the owner of each vehicle operated or utilized to provide for the transport for hire of solid waste or any portion thereof shall be required to certify knowledge and understanding of the provisions of this article and of the provisions of Neb. Rev. Stat. §13-2001 as it relates to the handling, transportation, and disposal of solid waste or any portion thereof. The occupation tax provided herein shall be paid on an annual basis without pro-ration. Said occupation tax is to be paid for the entire ensuing fiscal year upon any company's agreement to comply with terms and conditions of this article. There shall be no refund of said occupation tax once the same has been paid.

#### **SECTION 7-512: CONTRACTOR; OCCUPATION TAX ON RECEIPTS**

Any company that collects solid waste or any portion thereof from residential units, group dwelling units, commercial units and/or municipal unit shall, within the first 15 days of the last day of each month, present to the village clerk an itemized listing of all solid waste customers of the company in the village for which the company has provided solid waste removal services during the preceding month and the charge to each customer for which the company is entitled to payment. The village shall then pay the company 95% of the total of said itemized list. Thereafter, the village shall send statements to said customers for 100% of the amount due and collect said sum from said customers. Statements shall be delinquent after 30 days. If the statement is unpaid after an additional 30 days, the village shall thereafter certify the names, addresses, and amounts of those accounts which are delinquent to the company. The company

shall reimburse the village in an amount equal to 95% of the uncollected amount of those accounts which are delinquent. Thereafter, the company shall be responsible for collecting said delinquent accounts. The 5% difference, as afore-noted, between the amount provided the company to the village and the amount paid by the village to the company, shall constitute an occupation tax of the village pursuant to Chapter 5, Article 3 of this code.

**SECTION 7-513: CONTRACTOR; DISCRIMINATION**

Neither the company nor any officer, employee, agent or any person acting on said company's behalf shall discriminate against any person because of race, sex, creed, color, religion or national origin.

**SECTION 7-514: CONTRACTOR; INDEMNIFICATION**

The company shall indemnify and save harmless the village, its officers, agents, servants and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorney fees resulting from a willful or negligent act or omission of said company, its officers, agents, servants and employees in the performance of the franchise; provided, however, said company shall not be liable for any suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorney fees due to the willful or negligent act or omission of the village, its officers, agents, servants and employees.

**SECTION 7-515: CONTRACTOR; INSURANCE**

A. The company shall maintain in full force and effect the following types of insurance in at least the limits specified below:

Coverages	Minimum Limits of Liability
<i>Workers' Compensation</i>	<i>Statutory</i>
General Liability	\$ 500,000 each person
Bodily Injury	1,000,000 aggregate
Property Damage	500,000 each person
	1,000,000 aggregate
Automobile Liability	500,000 each person
Bodily Injury	1,000,000 aggregate
Property Damage	500,000 each person
	1,000,000 aggregate

B. All insurance will be by insurers acceptable to the village and authorized to do business in the state. At the time of application, the company shall furnish the village with certificates of insurance or other satisfactory evidence that such insurance has been produced and is in force. Said policies shall not thereafter be canceled, permitted to expire, or be changed without 30 days advance written notice to the village.

C. To the extent permitted by law, all or any part of required insurance coverage(s) may be provided under a plan of self-insurance, subject to approval by the village.

#### **SECTION 7-516: CONTRACTOR; ASSIGNMENT PROHIBITED**

Any company shall not assign its rights granted by the village to the company under this article to any other person, in whole or in part, without the express written consent of the village, which consent shall not be unreasonably withheld, except that the village shall be entitled to a 60-day notice of said assignment.

#### **SECTION 7-517: CONTRACTOR; WAIVER**

A waiver by either the village or any company of any breach of any provision hereof shall not be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

#### **SECTION 7-518: CONTRACTOR; COLLECTION SCHEDULE**

A. Any company that collects trash from residential units and group dwelling units shall provide curbside collection service for the collection of trash from residential units and group dwelling units at least one time per week. It is the responsibility of the resident of a residential unit and group dwelling unit to arrange that the garbage cans or totes are placed within 5 feet of the curb or street or as close as practicable to collection vehicle routes by 6:00 a.m. on the designated collection day. The company may decline to collect any garbage can or toter not so placed, any garbage can or toter that contains sharp objects or liquids, or any trash not properly contained. Where the company has reason to leave solid waste uncollected at a residential unit or group dwelling unit, said company or said company's agents shall inform the resident, owner, manager, or agent within one day by written notice, mailing, or telephone as to why the solid waste was not collected, i.e., non-residential solid waste, hazardous waste, unapproved garbage can or toter, improper placement, or other valid reason. Collection of bulky waste will be made upon request of the customer. The fee for collection of bulky waste shall be negotiated between the company and its customers on an individual basis.

B. Normal hours of collection are to be from 5:00 a.m. to 6:00 p.m. Monday through Saturday. Exceptions may be made only when the company has reasonably determined that an exception is necessary to complete collection of an existing route due to unusual circumstances or upon the mutual agreement of the village and the company.

C. In the event that a regularly scheduled collection is missed and a complaint received by either the village or the company, and where no fault can be found on the

generator's part, a special collection of the solid waste shall be required of said company within eight hours of receipt of the complaint by said company from either the generator or the village. The village shall notify said company of any complaints it receives regarding said company within one normal business day of the village.

D. The following holidays are optional as to whether or not a company chooses to observe them as non-collection days: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving and Christmas. The suspension of collection service on any such holiday in no way relieves a company of its obligation to provide collection service at least once per week. Extending the hours of service to meet this obligation is subject to the village's approval.

#### **SECTION 7-519: CONTRACTOR; COMPLAINTS**

A. The company shall receive and respond to all complaints regarding services. Any complaints received by the village will be directed to the company's office. A written record shall be made by the village of any complaint received by it regarding any company, which shall include, at a minimum, the following information:

1. Name of complainant;
2. Date and time of complaint;
3. Nature of complaint;
4. Date reported to company.

B. The company shall, within two working days thereafter, inform the village of said company's response to the complaint, the date and means of resolution of the complaint or an explanation of non-resolution of the complaint.

#### **SECTION 7-520: CONTRACTOR; VEHICLES**

An adequate number of vehicles shall be provided by the company to collect solid waste in accordance with the terms of this article. The vehicles shall be licensed in the State of Nebraska and shall operate in compliance with all applicable state, federal and village regulations. All vehicles shall be manufactured and maintained to conform with the applicable standards of the American National Standards Institute. All vehicles and equipment shall be kept in proper repair and sanitary condition. Each vehicle shall bear, as a minimum, the name and phone number of its company plainly visible on both cab doors in numbers and letters at least 3 inches high. All vehicles shall be sufficiently secure as to prevent any littering of solid waste and/or leakage of fluid. No vehicles shall be willfully overloaded.

#### **SECTION 7-521: CONTRACTOR; CONDUCT OF EMPLOYEES**

The company shall require its employees to be courteous at all times, to work quietly

and not to use loud or profane language. The company's employees shall follow the regular sidewalks for pedestrians while on private property, shall not trespass or loiter on private property, shall not cross property to adjoining property, and shall not meddle or tamper with property which does not or should not concern them. Each employee assigned to drive a vehicle shall at all times carry a valid driver's license for the type of vehicle he or she is driving. The village shall have the right to make a complaint regarding any employee of the company who violates any provision hereof or who is wanton, negligent, or discourteous in the performance of his or her duties. The village may suggest action to be taken in its complaint but it shall not be binding on said company.

#### **SECTION 7-522: CONTRACTOR; VIOLATIONS**

If any company should (A) violate any of the terms, conditions or provisions of this article; (B) fail to comply with any reasonable provisions of any ordinance of the village regulating the use by any company of the streets, alleys, easements or public ways of the village, or (C) fail to comply with any material representation of fact in its application and should said company further continue to violate or fail to comply with the same for a period of 30 days after said company shall have been notified in writing by the village to cease and desist from any such violation or failure to comply so specified, then said company may be deemed to have forfeited and annulled and shall thereby forfeit and annul all the rights and privileges granted hereunder to said company; provided, however, that such forfeiture shall be declared only by written decision of the chair and Board of Trustees after an appropriate public proceeding before the board affording said company due process and full opportunity to be heard and to respond to any such notice of violation or failure to comply; and provided further, the chair and board may, in their discretion and upon a finding of violation or failure to comply, impose a lesser penalty than forfeiture or excuse the violation or failure to comply upon a showing by said company of mitigating circumstances. Said company shall have the right to appeal any finding of violation or failure to comply and any resultant penalty to any court of competent jurisdiction.

#### **SECTION 7-523: CONTRACTOR; PENALTIES**

Any person or any company which violates the provisions of this article shall be guilty of a misdemeanor and shall be subject to the penalties as set forth below.

A. Any person upon whom a duty is placed by the provisions of this article, who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of this article, shall upon conviction thereof be punished by a fine in a sum not more than \$500.00, recoverable with costs, except that each person so convicted shall be fined in a sum of not less than \$100.00 for the first offense, not less than \$250.00 for a second offense, and not less than \$500.00 for the third offense and each offense thereafter.



B. Each day that a violation of any section of this article continues shall constitute a separate and distinct offense and shall be punishable as such. The penalties herein provided shall be cumulative with and in addition to any penalty or forfeiture elsewhere in this article provided.

## Article 6 – Penal Provision

### SECTION 7-601: 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.