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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. All such rates, taxes or rent shall be on file in the office of the village clerk for public inspection. (Neb. Rev. Stat. §17-538)

SECTION 7-102: BILLING AND COLLECTIONS; DELINQUENCY

A. The rates for water service shall be a flat rate for each residential and commercial consumer. In addition, the billing shall include charges for sewer and garbage pickup services. The public school shall be a separately classified consumer and shall pay an annual sewer use charge. All residential consumers who are at least 65 years of age and who supply verified proof of age on a form provided by the village shall be assessed a special monthly rate. Bills shall be mailed no later than the 20th day of the month.

B. All bills shall be payable on the 1st day of the month following the month of service. Consumers may pay their utility bills by mail or by presenting payment directly to the village clerk or by depositing payment in the village drop box located in the lobby of the Citizens State Bank. Any charges for utility services that remain unpaid after the 5th day of the month shall be delinquent and shall incur a late fee as set by the Village Board and placed on file in the office of the village clerk. The village shall mail written notice to the consumer on the 6th day of the month that a delinquency exists. The village may also take any action authorized by law to collect the delinquent charges.

C. Bills not paid after two months shall be subject to disconnection of the water supply, subject to Section 7-103 below, for the lot, parcel of land or premises affected and shall not be re-established except upon receipt of payment in full of the delinquent charges and further, upon payment of a fee for reconnection of the water service as set by the Village Board and placed on file in the office of the village clerk.

SECTION 7-103: DISCONTINUANCE OF SERVICE; NOTICE; PROCEDURE

A. No village utility shall discontinue service to any domestic subscriber for

nonpayment of any due account unless such utility shall first give written notice by mail to any subscriber whose service is proposed to be terminated at least seven days prior to termination, weekends and holidays excluded.

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, one copy of which is on file in the office of the village clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part hereof as though set out in full. A copy of such procedures shall be furnished upon the request of any domestic subscriber. The board shall notify the domestic subscriber of the time, place, and date scheduled for such conference.

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 7-104: LIEN

In addition to all other remedies, if a customer shall for any reason remain indebted to the village for utilities service furnished, such amount due, together with any rents and charges in arrears shall be considered a delinquent utility rent which is hereby declared to be a lien upon the real estate for which the same was furnished. The village clerk shall notify in writing or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of the utilities rent. It shall be the duty of the utilities superintendent on June 1 of each year to report to the Village Board a list of all unpaid accounts due for utilities service, together with a description of the premises served. The report shall be examined, and if approved by the board, shall be certified by the village clerk to the county clerk to be collected as a special tax in the manner provided by law. (Neb. Rev. Stat. §17-538, 17-925.01, 18-503)

SECTION 7-105: DIVERSION OF SERVICES; UNAUTHORIZED RECONNECTION PROHIBITED; EVIDENCE

A. Any person who connects any instrument, device, or contrivance with any pipe supplying water without the knowledge and consent of the 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. When water service has been disconnected pursuant to Neb. Rev. Stat. §70-1601 to 70-1615 or Section 7-103 of this code, any person who reconnects such service without the knowledge and consent of the village shall be deemed guilty of an offense. Proof of the existence of any pipe connection or reconnection as provided in this section shall be taken as prima facie evidence of the guilt of the person in pos-

session of the premises where such connection or reconnection, is proved to exist.
(Neb. Rev. Stat. §25-21,275 through 25-21,278, 28-515.02)

SECTION 7-106: 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. The owner of the premises served and the occupant(s) thereof shall be subject to a penalty if said individual or individuals connect or attempt to connect the water line of the village to the residence served. Such penalty amount shall be as set by the Village Board and placed on file in the office of the village clerk. (Ord. No. 2010-2, 3/8/10)

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)

Article 2 – Water Department

SECTION 7-201: OPERATION AND FUNDING

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

B. The utilities superintendent shall have the direct management and control of the Water Department and shall faithfully carry out the duties of his office. The superintendent shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department, subject to the supervision and review of the Village Board.

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

SECTION 7-202: DEFINITIONS

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

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

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

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

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

SECTION 7-203: MANDATORY HOOKUP; PRIVATE NON-VILLAGE WELLS

A. All persons whose property is within 300 feet of a main that is now or may hereafter be laid shall be required, upon notice by the Village Board, to hook up with the village water system.

B. The village may furnish water service to persons within its corporate limits

whose premises are not within 300 feet of a village commercial 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 water service to persons whose property line is not within 300 feet of the nearest main.

C. Each primary structure hereafter erected shall be connected with the water system at the time of its erection. In the event any owner, occupant or lessee shall neglect, fail or refuse 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.

D. Private wells previously constructed and operating prior to the village establishing 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)

SECTION 7-204: SERVICE TO NONRESIDENTS

The 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. Nothing herein shall be construed to obligate the village to provide water service to nonresidents. (Neb. Rev. Stat. §17-537, 19-2701)

SECTION 7-205: CONSUMER'S APPLICATION

Every person or persons desiring a supply of water must make application therefor to the village clerk. The application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the utilities superintendent. Water shall not be supplied to any house or private service pipe except upon the order of the superintendent.

SECTION 7-206: WATER CONTRACT; NOT TRANSFERABLE

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

B. The making of application on the part of any applicant for the use or consumption of water service by present customers 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 customer shall violate any of the provisions of said contract or any reasonable rules and regulations that the Village Board may hereafter adopt, the utilities superintendent or his agent may cut off or disconnect the water service from the building or premises of such violation. No further connection for water service to said building or premises shall again be made save or except by order of said superintendent or his agent.

C. Contracts for water service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall sell, dispose of, or move from the premises where service is furnished or if the said premises are destroyed by fire or other casualty, he or she shall at once inform the village clerk, who shall cause the water service to be shut off at the said premises. If the consumer should fail to give such notice, he or she shall be charged for water monthly until the utilities superintendent is otherwise advised of such circumstances.

(Neb. Rev. Stat. §17-537)

SECTION 7-207: INSTALLATION EXPENSE

A. The owner of the premises served and the occupant(s) thereof, the users of the water service, shall be jointly and severally liable for the water service provided said premises by the village. Upon the request of the owner of the premises served and the occupant(s) thereof, the village, by its representative, shall be responsible for connecting the consumer's line to the village water line, assuming all necessary fees have been paid and forms completed. "Necessary fees" shall include a hookup fee as set by the Village Board for new water service or for circumstances wherein the owner and/or user of the premises served requests a termination of water service to said premises and later requests a reconnection of water service.

B. The expense of providing water service to lot line shall be paid by the village. The consumer shall then pay the cost of installation and pipe from the lot line to the place of dispersement. The cost of the installation of the stop box shall be paid by the village. The consumer shall be required to pay the expense of procuring the services of a plumber and shall pay the expense of furnishing and installing pipe, trenching, and the necessary labor to bring water service from said lot line to the place of dispersement.

(Neb. Rev. Stat. §17-537, 17-542, 19-2701) (Am. by Ord. Nos. 91-12, 9/12/91; 92-5, 6/29/92; 2003-6, 11/11/03; 2005-10, 12/12/05; 2012-2, 3/8/10)

SECTION 7-208: 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) (Ord. No. 90-2, 1/8/90) (Am. by Ord. No. 90-7, 4/9/90)

SECTION 7-209: WORK HOURS

All taps or plumbing work done on or to the village water system shall be done between the hours of 8:00 a.m. and 6:00 p.m. (Neb. Rev. Stat. §17-537)

SECTION 7-210: REPAIRS AND MAINTENANCE

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

SECTION 7-211: INSTALLATION OR REPAIR PROCEDURE

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

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

C. All installations or repairs of pipes require inspections by the utilities superintendent. Inspections shall be made when connections or repairs are complete and before the pipes are covered. It is the customer's responsibility to notify the utilities superintendent at the time the work is ready for inspection.
(Neb. Rev. Stat. §17-537, 71-5301)

SECTION 7-212: WATER RATES

The Village Board has the power and authority to set the rates to be paid by the water customers for the use of water service. Customers of the Water Department shall be charged a flat rate for water use. All such rates shall be on file for public inspection at the office of the village clerk and all sewer customers shall be liable for the minimum rate provided by ordinance. (Neb. Rev. Stat. §17-540, 17-542)

SECTION 7-213: BILLING AND COLLECTIONS

The village clerk shall bill the consumers and collect all money received by the village on the account of the Water Department and shall faithfully account for and pay to the village treasurer all revenue collected. Billing, collection and termination proce-

dures are set forth in Sections 7-102 and 7-103. (Neb. Rev. Stat. §17-540)

SECTION 7-214: RIGHT OF ENTRY FOR INSPECTION

The utilities superintendent or his duly authorized agent shall have free access at any reasonable time to all parts of each premises and building to or in which water is delivered for the purpose of examining the pipes, fixtures, and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water. (Neb. Rev. Stat. §17-537)

SECTION 7-215: 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 with the pipe upon the premises for alteration, extension, or attachment without the written permission of the utilities superintendent. (Neb. Rev. Stat. §17-537)

SECTION 7-216: DESTRUCTION OF PROPERTY

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

SECTION 7-217: 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 Water Department to open or attempt to open any of the hydrants and draw water from the same or in any manner to interfere with the hydrants.

SECTION 7-218: 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 7-219: BACKFLOW PREVENTION DEVICES; CUSTOMER INSTALLATION AND MAINTENANCE; TESTING

A. A customer of the Water Department may be required by the utilities superintendent to install and maintain a properly located backflow prevention device at his or her expense appropriate to the potential hazards set forth in Title 179, Nebraska Department of Health, and approved by the utilities superintendent.

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

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

D. Each customer shall also certify to the village annually that the backflow prevention device, if equipped with a test port, has been tested by a Nebraska Department of Health Grade VI certified water operator. Such certification shall be made on a form available at the office of the village clerk.

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

F. Any decision of the utilities superintendent may be appealed to the Village Board.
(Ord. No. 91-14, 12/14/91) (Am. by Ord. No. _____)

SECTION 7-220: 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. The following facilities, acts or events shall be defined as nuisances for purposes of this subsection:

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

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

(Ord. No. 90-8, 4/9/90) (Am. by Ord. No. 2002-2, 3/11/02)

SECTION 7-221: WELLHEAD PROTECTION AREA

The Village Board has designated a wellhead protection area for the purpose of protecting the public water supply system. The boundaries of the wellhead protection area are on the map attached to Ord. No. 98-10, passed 9/14/98. "Wellhead protection area" means the surface and subsurface area surrounding a water well or well field supplying a public water system through which contaminants are reasonably likely to move toward and reach such water or well field. (Ord. No. 98-10, 9/14/98)

SECTION 7-222: WELLS AND OTHER UNDERGROUND FACILITIES; PERMITS

A. *Permit Required.* From and after the effective date of this section, it shall be unlawful for any person, corporation or other legal entity to drill and/or operate any of the following facilities within the corporate limits of the village without first having obtained the proper permit from the Village Board: potable water well; any other well, sewage lagoon; absorption or disposal field for water; cesspool; dumping grounds; feedlot; livestock pasture or corral; chemical product storage facility; petroleum product storage facility; pit toilet; sanitary landfill; septic tank; sewage treatment plant; sewage wet well.

B. *Procedure to Obtain Permit.* In order to obtain a permit to drill and/or operate any of the facilities listed above, the owner of the property on which the proposed facility is to be located must make application with the Village Board. Such application must be presented at any regular or special meeting. After reviewing the application of any person desiring to drill or operate any of the above-described facilities, then the board must approve or deny said permit.

C. *Penalties and Abatement Procedure.* In the event any of the above described facilities are installed or operated without first having obtained a permit from the village or within a designated number of feet from the municipal water supply, then such facilities shall be deemed a nuisance and the Village Board shall abate such facility as a public nuisance. In addition thereto, any person violating any of the terms of this section is hereby determined to be guilty of a Class III misdemeanor. (Ord. No. 2002-2, 3/11/02)

SECTION 7-223: RESTRICTED USE; VILLAGE LIABILITY

The Village Board or the utilities superintendent may order a reduction in the use of water or shut off the water on any premises in the event of a water shortage due to fire or other good and sufficient cause. The village shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or

any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the village has no control. (Neb. Rev. Stat. §17-537) (Am. by Ord. Nos. 92-5, 6/29/92; 2005-10, 12/12/05; 2010-2, 3/8/10)

SECTION 7-224: WATER EMERGENCY; DEFINITIONS; CLASSES OF USE

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

1. "Water" shall mean water available to the village for treatment by virtue of its water rights or any treated water introduced by the village into its water distribution system, including water offered for sale at any coin-operated site.
2. "Customer" shall mean the customer of record using water for any purpose from the village's water distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery.
3. "Waste of water" includes, but is not limited to (a) permitting water to escape down a gutter, ditch, or other surface drain; or (b) failure to repair a controllable leak of water due to defective plumbing.

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

1. *Class 1:* Water used for outdoor watering, either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational areas; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.
2. *Class 2:* Water used for any commercial or industrial purpose, including agricultural, except water actually necessary to maintain the health and personal hygiene of bona fide employees while such employees are engaged in the performance of their duties at their places of employment.
3. *Class 3:* Domestic usage, other than that which would be included in either Classes 1 or 2.
4. *Class 4:* Water necessary only to sustain human life and the lives of domestic pets and maintain standards of hygiene and sanitation.

C. Whenever the Village Board finds that conditions indicating that the probability of a drought or some other condition causing a major water supply shortage is rising, it shall be empowered to declare by resolution that a water watch exists and that it shall take steps to inform the public and ask for voluntary reductions in water use. Such a watch shall be deemed to continue until it is declared to have ended by

resolution of the Village Board. The resolutions declaring the existence and end of a water watch shall be effective upon their publication in the official village newspaper.

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

E. Upon the declaration of a water watch or water warning as provided in subsections (C) and (D), the Village Board shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies. Such emergency rates may provide for, but not limited to:

1. Higher charges for increasing usage per unit of use (increasing block rates);
2. Uniform charges for water usage per unit of use (uniform unit rate); or
3. Extra charges in excess of a specified level of water use (excess demand surcharge).

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

G. During the effective period of any water supply emergency as provided for in subsection (F) above, the village chairman or water superintendent is empowered to promulgate such regulation as may be necessary to carry out the provisions of this section, any water supply emergency resolution, or emergency water rate ordinance. Such regulations shall be subject to the approval of the Village Board at its next regular or special meeting.

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

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

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

I. A fee shall be paid for the reconnection of any water service terminated pursuant to subsection (H). In the event of subsequent violations, higher reconnection fees shall be set for the second and for any additional reconnections. All such fees shall be as set by the Village Board and placed on file in the office of the village clerk.

J. Any violation of this section may be prosecuted in County Court. Any person so charged and found guilty of violation of the provisions of this ordinance shall be guilty of a municipal offense. Each day's violation shall constitute a separate offense. The penalty for an initial violation shall be a mandatory fine. In addition, such customer may be required by the court to serve a definite term of confinement in the county jail which shall be fixed by the court and which shall not exceed 30 days. The penalty for a second or subsequent conviction shall be a mandatory fine. In addition, such violator shall serve a definite term of confinement in the county jail which shall be fixed by the court and which shall not exceed 30 days. Said fines shall be as set by the Village Board and placed on file in the office of the village clerk.

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

(Ord. No. 2002-1, 3/11/02)

Article 3 – Sewer Department

SECTION 7-301: OPERATION AND FUNDING

A. The village owns and operates the village sewer system through the utilities superintendent. The Village Board, for the purpose of defraying the cost of the operation, maintenance and replacement (OM&R) of the village sewer system may establish a user charge system based on actual use and revise the charges, if necessary, to accomplish the following:

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

B. The revenue from the said user charge system based on actual use shall be known as the sewer maintenance fund. The utilities superintendent shall have the direct management and control of the Sewer Department and shall faithfully carry out the duties of his office. He shall have the authority to adopt rules and regulations for the sanitary and efficient management of the department subject to the supervision and review of the Village Board. (Neb. Rev. Stat. §17-149, 17-925.01)

SECTION 7-302: DEFINITIONS

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

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

"Building or house sewer" shall mean and include that part of a house or building drainage system extending from the house or building drain to its connection with the main sewer.

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

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

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

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

"Plumbing fixtures" shall mean and include receptacles intended to receive and discharge water, liquids or water-carried wastes into the sewer system with which they are connected.

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

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

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

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

"Sewage works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

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

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

"Soil pipe" shall mean and include any pipe that conveys the discharge of water closets with or without the discharge from other fixtures to the house or building drain.

"Storm drain" shall mean a sewer that carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

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

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

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

A. It shall be unlawful for any person to place, deposit or permit to be deposited any human or animal excrement, garbage, or other objectionable waste in any unsanitary manner on public or private property within the village, within 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 two miles 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. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage. Septic tanks may be installed as provided in Section 7-319.

D. 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.

E. It shall further be unlawful to connect or maintain connected to the sanitary sewer system any pump which pumps any of the above-identified kinds of water for any purpose whatsoever. In addition to the other remedies that are provided by this chapter for violations of this code, the village shall have the right to secure the abatement of any connection or discharging violation of this section.

SECTION 7-304: MANDATORY HOOKUP

A. The owner of any house, building, or property used for human employment, recreation, or other purposes, situated within the village and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer line of the village, is hereby required at the owner's expense to install suitable toilet facilities therein and to connect such facilities directly with the said public sewer in accordance with the provisions of this article within 90 days after date of official notice to do so, provided that said public sewer is within 100 feet of the property line.

B. The village may furnish sewer service to persons within its corporate limits whose property line is not within 100 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.

C. Each primary structure hereafter erected shall be connected with the sewer system at the time of its erection. In the event that any property owner, occupant, or lessee shall neglect, fail, or refuse to make such a connection with the public sewer within a period of 90 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 or to collect in

the manner provided for the collection of sewer bills as provided herein.

SECTION 7-305: SERVICE TO NONRESIDENTS

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

SECTION 7-306: CONSUMER'S APPLICATION

Any person wishing to connect with the sewer system shall make an application to the utilities superintendent, which shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent. Sewer service may not be supplied to any house or building except upon the order of the utilities superintendent. (Neb. Rev. Stat. §19-2701)

SECTION 7-307: SEWER CONTRACT; NOT TRANSFERABLE

A. The rules, regulations, and sewer rental rates hereinafter named in this section shall be considered a part of every application hereafter made for sewer service and shall be considered a part of the contract between every customer now or hereafter served.

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

C. Contracts for sewer service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any customer shall sell, dispose of, or move from the premises where service is furnished or if the said premises are destroyed by fire or other casualty, he or she shall at once inform the utilities superintendent who shall cause the water service to be shut off at the said premises. If the customer should fail to give notice, he or she shall be charged for sewer service monthly until the official in charge of sewers is otherwise advised of such circumstances.

(Neb. Rev. Stat. §18-503)

SECTION 7-308: INSTALLATION EXPENSE

All costs and expenses incidental to the installation and connection of the building

sewer shall be borne by the owner. The owner shall indemnify the village from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The utilities superintendent, in his discretion, may direct the customer to hire a plumber to tap the main. The customer shall then be required to pay the expense of procuring the materials required as well as any services of a plumber and shall pay all other costs of installation. (Neb. Rev. Stat. §18-503) (Ord. No. 89-4, 11/13/89) (Am. by Ord. Nos. 90-4, 4/9/90; 95-11, 11/13/95; 2003-7, 11/11/03; 2005-8, 12/12/05; 2009-1, 1/12/09; 2010-3, 3/8/10)

SECTION 7-309: REPAIRS AND MAINTENANCE

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 utilities superintendent shall complete the work and charge the cost of such repairs or replacement to the customer.
(Neb. Rev. Stat. §18-1748)

SECTION 7-310: INSTALLATION OR REPAIR; PROCEDURE, MATERIALS

A. All installation or repair of any part of the sewerage system shall be done under the supervision of the utilities superintendent and strictly in accordance with the rules, regulations, and specifications on file with the village 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 sewerage system installation or repairs is not among those on file in the clerk's office, a determination shall be made and expense paid using the same procedures as prescribed for determinations of materials for water mains, supply lines and service lines. (Neb. Rev. Stat. §18-503)

B. 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.

C. After the 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 utilities superintendent 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.

D. All installations or repairs of pipes require two inspections by the utilities superintendent: (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 superintendent at the time the work is ready for each inspection.

(Neb. Rev. Stat. §18-503)

SECTION 7-311: 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 utilities superintendent, to conform in all respects to the requirements governing new sewers and drains. If the old work is found defective or otherwise unsatisfactory, the superintendent shall notify the owner to make the necessary changes to conform to the provisions of the village code.

SECTION 7-312: 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 7-313: 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 7-314: SEWER RATES

The Village Board has the power and authority to set the rates to be paid by the sewer customers for the use of sewer service. Customers of the Sewer Department shall be charged a flat rate based on water usage for the use of sewer service. All such rates shall be on file for public inspection at the office of the village clerk and all sewer customers shall be liable for the minimum rate provided by ordinance.

SECTION 7-315: 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 7-316: BILLING AND COLLECTIONS

The village clerk shall bill the consumers and collect all money received by the village on the account of the Sewer Department and shall faithfully account for and pay to the village treasurer all revenue collected. Billing, collection and termination procedures are set forth in Sections 7-102 and 7-103. (Neb. Rev. Stat. §17-540)

SECTION 7-317: 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 7-318: 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 7-319: PRIVATE SEWAGE DISPOSAL; PERMIT

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

B. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the utilities superintendent. The application for such permit shall be made on a form furnished by the village, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the superintendent.

C. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the utilities superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the superintendent.

D. The type, capacities, location and layout of a private sewage disposal system shall comply with the Nebraska Department of Environmental Quality Title 124 *Rules and Regulations for the Design, Operation and Maintenance of Septic Tank Systems*.

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

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

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

H. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by state or federal law.

SECTION 7-320: PROHIBITED DISCHARGES; WATERS

A. No person shall discharge or cause to be discharged any stormwater, surface water, ground water, roof run-off, exterior or interior foundation drainage or sub-surface drainage to any sanitary sewer. Uncontaminated cooling water or heating water and unpolluted industrial process waters may be discharged to a sanitary sewer only if expressly authorized by the water commissioner.

B. Storm water 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 utilities superintendent. Industrial cooling water or unpolluted process water may be discharged, on approval of the superintendent, to a storm sewer, combined sewer, or natural outlet. The contributor of any identifiable discharge of polluted water to the sanitary sewer system shall be held responsible for reimbursing the village for such costs. The costs shall be determined by the superintendent.

SECTION 7-321: HAZARDOUS DISCHARGES; PRETREATMENT

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 including 40 CFR, Part 403.

Article 4 – Solid Waste

(Ord. No. 92-6, 6/29/92) (Am. by Ord. Nos. 93-6, 9/13/93; 2003-8, 11/11/03; 2005-9, 12/12/05; 2007-4, 10/15/07; 2013-2, 2/11/13)

SECTION 7-401: OPERATION AND FUNDING

A. All revenues and money derived from the operation of the garbage pickup service shall be paid to and held by the village clerk separate and apart from all other funds of the village. All other funds and money incident to the operation of the garbage pickup service as may be delivered to the said clerk shall be deposited in a separate fund designated "the Village of Clearwater Garbage Service Revenue Fund Account" and said funds said shall be administered in every respect in a manner provided by the state statutes and all other laws pertaining thereto.

B. The village clerk shall establish a proper system of accounts and shall keep proper records, books and accounts in which complete and correct entries shall be made of all transactions relative to the garbage pickup service system. The Village Board may cause an annual audit of the books to be made by an independent auditor to show the receipts and disbursements relevant to the garbage pickup service system.

SECTION 7-402: GARBAGE PICKUP SERVICE

A. The word "garbage" as used in this ordinance shall be interpreted to mean and include all waste, animal and vegetable matter, rubbish, trash, debris, aluminum, paper, and other waste materials generally, including all discarded items of whatever nature. "Garbage" as used herein shall specifically not include leaves grass clippings, automobiles, tires, trees, tin, wire, iron and any added restrictions by LB 1257 or its statutory reference or by federal regulations.

B. Garbage pickup service provided through the village shall be by contract established by and between the village and the contractor retained to provide said service.

C. A service charge has been set for the service supplied by the village based upon a monthly rate for residential sites and business sites. It is hereby made the duty of the village clerk to render service charge bills for garbage pickup service and all other charges in connection therewith and to collect all money due therefrom. The charges shall be billed on a monthly basis along with the water and sewer charges. Billing and collections shall be as provided in Section 7-102.

D. Applications for garbage pickup service shall be filed with the village clerk upon a form to be supplied by the village. The application shall state the name of the applicant and the premises where garbage pickup shall be made. Each consumer wishing to terminate garbage pickup service shall be required to file a written termination statement with the village clerk. All garbage service pickups shall be presumed to

be on a continuing basis pursuant to application for service filed with the village clerk unless and until a written termination is filed with the clerk.

E. The owner of the premises served and the occupants thereof and consumer of the garbage pickup service shall be jointly and severally liable for the garbage pickup service provided said premises by the village.

SECTION 7-403: HAZARDOUS WASTE OR WASTE REQUIRING SPECIAL HANDLING

Any person, firm, or corporation within the village's solid waste jurisdiction area generating or creating hazardous waste or waste requiring special handling or disposal shall be responsible for the transportation and disposal of the same. All such handling and disposal shall in all respects comply with state and federal laws and regulations pertaining to the specific type of waste generated. (Neb. Rev. Stat. §13-2020, 13-2023, 13-2026)

SECTION 7-404: ADDITIONAL REGULATIONS

The Village Board may from time to time make and adopt by ordinance such additional rules and regulations governing the use, operations, and control of the solid waste collection and disposal system and the regulation of solid waste within the village's solid waste jurisdiction area as it may deem necessary to promote the efficient operation and management of the system and to protect the environment and the health, safety, and welfare of all persons within the jurisdiction area. (Neb. Rev. Stat. §13-2020, 13-2023, 13-2026)

Article 5 – Penal Provision

SECTION 7-501: VIOLATION; PENALTY

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