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## **CHAPTER 6 – PUBLIC WAYS AND PROPERTY**

### **Article 1 – Municipal Property**

#### **SECTION 6-101: DEFINITIONS**

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

"Sidewalk space," as used herein, shall mean that portion of a street between curb lines and adjacent property lines.

#### **SECTION 6-102: MAINTENANCE AND CONTROL**

The Village Board shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the Village and shall cause the same to be kept open, in repair, and free from nuisances. (Neb. Rev. Stat. §17-567)

#### **SECTION 6-103: BARRICADES AND LIGHTS**

Whenever any excavation on any public property including, without limitation, parkings, sidewalks, curbs and streets, occurs within the zoning jurisdiction of the Village, the party responsible for the excavation shall provide adequate barricades around the excavation and shall install sufficient warning lights and signs around it to protect the public. (Ord. No. 636, 3/12/02)

#### **SECTION 6-104: OBSTRUCTIONS**

Trees and shrubs growing upon, or near the lot line or upon public ground and interfering with the use or construction of any public improvements shall be deemed an obstruction under this article. Said trees, shrubs and their roots may be removed by the Village at the expense of the owner of the property upon which the tree or shrub is located should the owner fail or neglect, after notice, to do so. It shall be unlawful for any person, firm, or corporation to obstruct or encumber by fences, gates, buildings, structures, or otherwise, any of the streets, alleys, or sidewalks. (Neb. Rev. Stat. §17-557.01)

#### **SECTION 6-105: EAVE AND GUTTER SPOUTS**

It is hereby declared unlawful for any person to erect or maintain any dwelling house or business building within the limits of the Village where the said dwelling or building abuts on any sidewalk or street without providing proper guttering and eave spouts to receive the waste waters that collect on the said sidewalks and streets. All eave spouts erected on any dwelling house or business building shall be constructed to

drain into the alleys, or shall be buried beneath the sidewalks and drain into the streets wherever it is found to be impossible to drain said eave spouts into the alley.

#### **SECTION 6-106: CUTTING CURB; PERMIT, DEPOSIT**

A. It shall be unlawful for any person to cut into any paving, curb, or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained a written permit from the Village Board therefor. Before any person shall obtain a permit, he shall inform the Village Clerk of the place where such cutting is to be done and it shall be the chief street official's or designated personnel's duty to inspect the place of entry into the paving, sidewalk, or curb, before the same is cut.

B. Before any permit is issued by the Village Board, the applicant for such permit shall deposit with the Village Treasurer a sum set by resolution of the Village Board for all paving, curb, or sidewalk to be cut. The deposit shall be retained for one calendar year by the Village and will be returned after inspection by the chief street official or designated personnel. In addition to making the deposit above set forth, the applicant shall, before any permit is issued, execute a bond to the Village with a good and sufficient surety or sureties to be approved by the Village Board in a sum set by resolution of the Village Board.

C. When cutting into any paving, it shall be the duty of the party to cut the paving under such rules and regulations as may be prescribed by the Village Board or the Village Engineer. When the applicant is ready to close the opening made, he shall inform the Street Superintendent or designated personnel, who shall supervise and inspect the materials used and the work done to close the opening. It shall be discretionary with the Village Board to order the chief street official, under the supervision and inspection of the Village Engineer or the committee of the Board on the streets and alleys, to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained such permit. The Village Board may allow the work of cutting and closing the paving to be done by the party holding such permit. (Neb. Rev. Stat. §17-567) (Am. by Ord734 3/25/14)

#### **SECTION 6-107: REAL PROPERTY; ACQUISITION; CONSTRUCTION; ELECTIONS, WHEN REQUIRED**

A. The Village is authorized and empowered to purchase, accept by gift or devise, purchase real estate upon which to erect, and erect a building or buildings for an auditorium, fire station, village building, or community house for housing village enterprises and for social and recreation purposes, and other public buildings, and maintain, manage, and operate the same for the benefit of the inhabitants of the Village.

B. Except as provided in subsection (C) of this section, before any such purchase can be made or building erected, the question shall be submitted to the electors of the Village at a general village election or at an election duly called for that purpose, or as set forth in **Neb. Rev. Stat. §17-954**, and be adopted by a majority of the electors voting on such question.

C. If the funds to be used to finance the purchase or construction of a building pursuant to this section are available other than through a bond issue, then either:

1. Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the Village and no election shall be required to approve the purchase or construction unless within 30 days after the publication of the notice, a remonstrance against the purchase or construction is signed by registered voters of the Village equal in number to 15% of the registered voters of the Village voting at the last regular village election held therein and is filed with the Village Board. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be considered timely if filed or post-marked on or before the next business day. If a remonstrance with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the Village at a general village election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then, nor within one year following the election, be purchased or constructed; or
2. The Village Board may proceed without providing the notice and right of remonstrance required in subsection (1) of this subsection if the property can be purchased below the fair market value as determined by an appraisal, there is a willing seller, and the purchase price is less than \$25,000.00. The purchase shall be approved by the Village Board after notice and public hearing as provided in **Neb. Rev. Stat. §18-1755**.

(Neb. Rev. Stat. §17-953, 17-953.01)

#### **SECTION 6-108: REAL PROPERTY; ACQUISITION; AUTHORITY**

When acquiring an interest in real property by purchase or eminent domain, the Village shall do so only after the Village Board has authorized the acquisition by action taken in a public meeting after notice and public hearing. (Neb. Rev. Stat. §18-1755)

#### **SECTION 6-109: REAL PROPERTY; ACQUISITION; APPRAISAL**

The Village shall not purchase, lease-purchase, or acquire for consideration real property having an estimated value of \$100,000.00 or more unless an appraisal of such property has been performed by a certified real estate appraiser. (Neb. Rev. Stat. §13-403)

**SECTION 6-110: REAL PROPERTY; SALE AND CONVEYANCE**

A. Except as provided in subsection (I) of this section, the power of the Village to convey any real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution, directing the sale at public auction or by sealed bid of such real property and the manner and terms thereof, except that such real property shall not be sold at public auction or by sealed bid when:

1. Such property is being sold in compliance with the requirements of federal or state grants or programs;
2. Such property is being conveyed to another public agency; or
3. Such property consists of streets and alleys.

B. The Village Board may establish a minimum price for such real property at which bidding shall begin or shall serve as a minimum for a sealed bid.

C. After the passage of the resolution directing the sale, notice of all proposed sales of real property described in subsection (A) of this section and the terms thereof shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in the Village.

D. If within 30 days after the third publication of the notice a remonstrance against such sale is signed by registered voters of the Village equal in number to 30% of the registered voters of the Village voting at the last regular village election held therein and is filed with the Village Board, such property shall not then, nor within one year there-after, be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the 30-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day.

E. Upon the receipt of the remonstrance, the Village Board, with the aid and assistance of the Election Commissioner, shall determine the validity and sufficiency of signatures on the remonstrance. The Board shall deliver the remonstrance to the Election Commissioner by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Upon receipt of the remonstrance, the Election Commissioner shall issue to the Village Board a written receipt that the remonstrance is in the custody of the Election Commissioner, who shall compare the signature of each person signing the remonstrance with the voter registration records to determine if each signer was a registered voter on or before the date on which the remonstrance was filed with the Board. The Election Commissioner shall also compare the signer's printed name, street and number or voting precinct and village or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the Election Commissioner determines that the printed name, street and number or voting precinct, and village or post office address matches the registration records

and that the registration was received on or before the date on which the remonstrance was filed with the Village Board. The determinations of the Election Commissioner may be rebutted by any credible evidence which the Village Board finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the remonstrance, the sufficiency of the remonstrance, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the remonstrance process. Upon completion of the comparison of names and addresses with the voter registration records, the Election Commissioner shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the non-registration of the signer, the Election Commissioner shall set forth the reason for the invalidity of the signature. If the Election Commissioner determines that a signer has affixed his/her signature more than once to the remonstrance and that only one person is registered by that name, the Commissioner shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature. The Election Commissioner shall certify to the Village Board the number of valid signatures necessary to constitute a valid remonstrance. The Election Commissioner shall deliver the remonstrance and the certifications to the Village Board within 40 days after the receipt of the remonstrance from the Board. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Not more than 20 signatures on one signature page shall be counted.

F. The Village Board shall, within 30 days after the receipt of the remonstrance and certifications from the Election Commissioner, hold a public hearing to review the remonstrance and certifications and receive testimony regarding them. Following the hearing, the Board shall vote on whether or not the remonstrance is valid and shall uphold the remonstrance if sufficient valid signatures have been received.

G. Real estate now owned or hereafter owned by the Village may be conveyed without consideration to the State of Nebraska for state armory sites or, if acquired for state armory sites, such property shall be conveyed strictly in accordance with the conditions of **Neb. Rev. Stat. §18-1001 to §18-1006**.

H. Following (1) passage of the resolution directing a sale, (2) publishing of the notice of the proposed sale, and (3) passage of the 30-day right-of-remonstrance period, the property shall then be sold. Such sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale. The Village Clerk, upon passage of such ordinance, shall certify the name of the purchaser to the register of deeds of the county in which the property is located.

I. Subsections (A) to (H) of this section shall not apply to the sale of real property if the authorizing resolution directs the sale of an item or items of real prop-

erty, the total fair market value of which is less than \$5,000.00. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the Village for a period of not less than seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required.

(Neb. Rev. Stat. §17-503, 17-503.01)

### **SECTION 6-111: PERSONAL PROPERTY; SALE AND CONVEYANCE**

A. The Village may convey any personal property owned by it. Such sale shall be exercised by resolution directing the sale and the manner and terms of the sale. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the Village for a period of not less than seven days prior to the sale of the property. If the fair market value of the property is greater than \$5,000, notice of the sale shall also be published once in a legal newspaper published in or of general circulation in such village at least seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale.

B. Personal property may be conveyed notwithstanding the procedure in subsection (A) of this section when such property is being sold in compliance with the requirements of federal or state grants or programs or when such property is being conveyed to another public agency.

(Neb. Rev Stat. §17-503.02)

### **SECTION 6-112: PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING; REQUIREMENTS**

A. Except as provided in subsection (B) of this section, the Village shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer.

B. Subsection (A) of this section shall not apply to the following activities:

1. Any public works project with contemplated expenditures for the completed project that do not exceed \$40,000;
2. Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;
3. Performance of professional services for itself if the Village appoints a Village Engineer or employs a full-time person licensed under the Engineers and Architects Regulation Act who is in responsible charge of ar-



chitectural or engineering work;

4. The practice of any other certified trade or legally recognized profession;
5. Earthmoving and related work associated with soil and water conservation practices performed on any land owned by the Village that is not subject to a permit from the Department of Water Resources;
6. The work of employees and agents of the Village performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance;
7. Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;
8. The construction of village water wells as defined in **Neb. Rev. Stat. §46-1212**, the installation of pumps and pumping equipment into village water wells, and the decommissioning of village water wells, unless such construction, installation, or decommissioning is required by the Village to be designed or supervised by an engineer or unless legal requirements are imposed upon the Village as a part of a public water supply; and
9. Any other activities described in **Neb. Rev. Stat. §81-3449 to §81-3453**.

(Neb. Rev. Stat. §81-3423, 81-3445, 81-3449 through 81-3453)



## Article 2 – Streets

### SECTION 6-201: NAMES AND NUMBERS

The Village Board may at any time by ordinance rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along such streets shall retain such numbers as the Board may require. Upon the erection of any new building, it shall be the duty of the village official in charge of streets to assign the proper numbers to said building and give notice to the owner(s) and occupant(s) of the same.

### SECTION 6-202: CROSSINGS

The Village Board may order and cause to be constructed, under the supervision of the Street Superintendent, such street, avenue, and alley crossings as it shall deem necessary. When a petition for the construction of any such crossings is filed in the office of the Village Clerk by an interested resident, said Clerk shall refer such application to the chief street official, who shall investigate and make his recommendation to the Village Board. Action by the Board on such application, whether the application is approved or rejected, shall be considered final.

### SECTION 6-203: WIDENING OR OPENING

The Village Board shall have the power to open or widen any street, alley, or lane within the limits of the Village and to create, open, and improve any new street, alley, or lane; provided, all damages sustained shall be ascertained in such manner as shall be provided by ordinance. (Neb. Rev. Stat. §17-558, 17-559, 76-704 through 76-724)

### SECTION 6-204: EXCAVATION

It shall be unlawful for any person to make an excavation in any street for any purpose whatsoever unless a written permit is issued by the Village Street Superintendent authorizing such excavations. (Neb. Rev. Stat. §17-567)

### SECTION 6-205: DRIVING STAKES

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without first procuring the written consent of the village Street Superintendent.

### SECTION 6-206: MIXING CONCRETE

It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever.

**SECTION 6-207: HARMFUL LIQUIDS**

It shall be unlawful for any person to place or permit to leak in the gutter of a street any waste gasoline, kerosene, or high lubricating oils, which damage or act as a solvent upon said streets.

**SECTION 6-208: PIPELINES AND WIRES**

A. Application for location of poles, wires, gas mains, pipelines, and other appurtenances of public service companies shall be made to the Village Board in writing. Approval by the Board shall be issued in writing. Any public service company granted a right-of-way for the erection and maintenance of appurtenances shall at all times erect and locate the same at such places and in such manner as designated by the Village Board. All poles, wires, gas mains, pipelines, or other appurtenances shall be erected, placed, or reset in such a manner that they will not interfere with the water system; sewerage system; poles, wires, and mains of any public utility; adjacent buildings; or with travel on the public ways and property. Whenever possible, such appurtenances shall be confined to the alleys of the Village.

B. Such poles, wires, gas mains, pipelines, and other appurtenances shall be removed or relocated by said companies at their own expense when requested to do so by the Village Board. Any such relocation shall be ordered by resolution of the Board, and the Village Clerk shall notify any and all companies affected. Said companies shall, within 24 hours after receiving notice, at their own expense, cause the poles, wires, gas mains, pipelines, or other appurtenances to be removed. The Village Board shall designate another location as closely as possible where said appurtenances may be reset or placed.

**SECTION 6-209: CONSTRUCTION NOTICE**

The Street Superintendent shall notify the owners in fee simple of real estate abutting a street, alley, or a part thereof which is to be put under contract for paving or repaving. Notice shall also be given to all gas, electric service, and telephone companies and to all consumers of gas, water, and sewer services which will be discontinued during such construction. Said notice (A) shall be published one time in a legal newspaper of general circulation in the Village at least 20 days prior to the beginning of such construction by the party undertaking such construction and (B) shall state at what date connections must be made and excavation completed. All gas, water, sewer, and underground connections must be made prior to the paving or repaving of the street under construction. After expiration of such time, permits for excavation will not be issued, nor will excavation be allowed until after the completion of the paving of said street or alley and the final acceptance thereof by the proper village officials.

**SECTION 6-210: CONSTRUCTION ASSESSMENT**

A. To defray the costs and expenses of street improvements as may be authorized by law, the Village Board shall have power and authority to levy and collect

special taxes and assessments upon the lots and pieces of ground adjacent to, abutting upon, or especially benefiting from the street, avenue, alley, or sidewalk in whole or in part opened, widened, curbed, guttered, graded, paved, repaired, graveled, macadamized, parked, extended, constructed, or otherwise improved or repaired. The Village Board, sitting as the Board of Equalization, shall review all such improvements in accordance with the procedure provided by law.

B. All special assessments shall be made by the Village Board at a regular or special meeting by resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements and the amount charged against same. The vote shall be recorded in the minutes. Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in a legal newspaper published in or of general circulation in the Village at least four weeks before the same is held. In lieu of such aforementioned notice, personal service may be had upon the persons owning or occupying the property to be assessed.

C. Such assessments shall be known as "special assessments for improvements" and with the cost of notice shall be levied and collected as a special tax in addition to the taxes for general revenue purposes, subject to the same penalties and collected in like manner as other village taxes and certified to the County Clerk by the Village Clerk forthwith after the date of levy for collection by the County Treasurer unless otherwise specified. After it shall have become delinquent, said assessment shall draw interest at the legal interest rate per annum.

C. In the event the property owner is a nonresident of the county in which the property lies, the Village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

**(Neb. Rev. Stat. §17-511, 17-524, 19-2428 through 19-2431, 45-104.01)**

## **SECTION 6-211: IMPROVEMENT DISTRICTS; OBJECTIONS**

Whenever the Village Board deems it necessary to make any improvements allowed by statute which are to be funded by levy of a special assessment on the property especially benefited, the Board shall by ordinance create a paving, graveling, or other improvement district and, after the passage, approval, and publication or posting of such ordinance, shall publish notice of the creation of any such district for six days in a legal newspaper of the Village if a daily newspaper, or for two consecutive weeks if a weekly newspaper. If no legal newspaper is published in the Village, the publication shall be in a legal newspaper of general circulation in the Village. If the owners of record title representing more than 50% of the front footage of the property directly abutting on the street or alley to be improved file with the Village Clerk within 20 days after the first publication of such notice written objections to the creation of such district, such improvements shall not be made as provided in such ordinance, but such ordinance shall be repealed. If objections are not filed against the district in the time

and manner prescribed in this section, the Village Board shall immediately cause such work to be done or such improvements to be made, shall contract for the work or improvements, and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street or alley especially benefited in such district in proportion to such benefits to pay the cost of such improvements. **(Neb. Rev. Stat. §17-511)**

#### **SECTION 6-212: VACATING STREETS OR ALLEYS; TITLE**

A. Upon the vacation of any street or alley or any part thereof by the Village, the title of such property shall vest in the owner of the abutting property and become part of such property, one-half on each side thereof, except that the Village may reserve title to such property in the ordinance vacating such street or alley. If title is retained by the Village, such property may be sold, conveyed, exchanged or leased upon such terms and conditions as shall be deemed in the best interest of the Village.

B. In the event the Village does not elect to reserve title in the vacated portion of such street or alley, the title to said property nonetheless shall be subject to the following:

1. There is reserved to the Village the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated there; and
2. There is reserved to the Village, any public utilities, and any cable television systems the right to maintain, repair, renew, and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, above, on, or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times.

**(Neb. Rev. Stat. §17-558)**

## Article 3 – Sidewalks

### SECTION 6-301: DUTY TO KEEP CLEAN

It shall be unlawful for the occupant of any lot or the owner of any vacant lot within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud, or other substance to remain upon said sidewalk. All sidewalks within the business district shall be cleaned within five hours after the cessation of a storm, unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 8:30 A.M. the following day; provided, sidewalks within the residential areas of the Village shall be cleaned within 24 hours after the cessation of the storm. (Neb. Rev. Stat. §17-557)

### SECTION 6-302: MAINTENANCE

A. Every owner of any lot or piece of land within the corporate limits shall at all times keep and maintain the sidewalk along and contiguous to said lot or piece of land, as the case may be, in good and proper repair and in a condition reasonably safe for all travelers thereon. In the event that the owner or owners of any lot, lots, or lands abutting on any street, avenue, or part thereof shall fail to construct or repair any sidewalk in front of his/her/their lot, lots, or lands within the time and in the manner as directed and required herein, after having received due notice to do so, he/she/they shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk. The Village Board shall have power to cause any such sidewalks to be constructed or repaired and assess the costs thereof against such property.

B. In the event the property owner is a nonresident of the county in which the property lies, the Village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.  
(Neb. Rev. Stat. §17-557.01)

### SECTION 6-303: REPAIR

A. The Street Superintendent may require sidewalks of the Village to be repaired. Notice to the owners of property upon which such sidewalks in disrepair are located shall require said owners to make arrangements within 48 hours from issuance of notice to have the sidewalk repaired. Said repairs shall be completed within 21 days after issuance of said notice. No special assessment shall be levied against the property unless said owner shall neglect or refuse to repair within the time prescribed; and in the event that such owner fails to make the repairs, the Village shall cause the repairs to be made and assess the property owner the expense of such repairs.

B. In the event the property owner is a nonresident of the county in which the property lies, the Village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

#### **SECTION 6-304: CONSTRUCTION BY OWNER; PERMIT**

A. Any person desiring to construct any sidewalk or cause the same to be constructed shall do so only as herein provided. It shall be unlawful for any person to construct any sidewalk without first having obtained a permit.

B. Said owner shall make application for a permit in writing in the office of the Village Clerk. The application shall give a description of the lot or piece of land along which the sidewalk is to be constructed. The Street Superintendent shall issue the desired permit unless good cause shall appear why said permit should be denied; provided, if it is desired to construct the sidewalk at any other than the regularly prescribed location, grade, or elevation, the village official in charge of sidewalks shall submit the application to the Village Board, which shall determine whether the permit should be granted or denied. It shall be unlawful for any person to construct or cause to be constructed said sidewalk at any other location, grade, or elevation than so designated by the Village. All sidewalks shall be built and constructed on the established grade, or elevation, and if there is no established grade, then on the grade or elevation indicated by the village official in charge of sidewalks

#### **SECTION 6-305: CONSTRUCTION BY VILLAGE**

A. The Village Board may, by resolution, order the construction of a sidewalk on any lot or piece of ground within the Village. Notice of the Board's intention to construct said sidewalk shall be given by the Village Clerk by publication of notice one time in a legal newspaper of general circulation in the Village.

B. A copy of said notice shall be personally served upon the occupant in possession of such property, or, when personal service is not possible, said notice shall be posted upon such premises ten days prior to the commencement of construction. The notice required in this section shall be prepared by the Village Attorney. Such service shall include a form of return evidencing personal service or posting as herein required.

C. Said notice shall notify the owner of the premises of the passage of the resolution ordering him/her to construct or cause to be constructed a sidewalk within 30 days after the date of publication and further, that if he fails to construct the sidewalk or cause the same to be done within the time allowed, the Village will cause the sidewalk to be constructed and the cost thereof shall be levied and assessed as a



special tax against the premises; provided, the notice shall contain the official estimate of the cost of said construction and no special assessment in excess of this estimate shall be assessed against the property.

D. In the event the property owner is a nonresident of the county in which the property lies, the Village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-522, 17-523)

### **SECTION 6-306: CONSTRUCTION BY PETITION**

A. If the owners of record title representing more than 60% of the front footage of the directly abutting property subject to assessment for sidewalk improvements petition the Village Board to make the same, the Board shall proceed in all things as though such construction had been ordered by it. Upon the petition of any freeholder who is an abutting owner in fee simple of property subject to assessment for sidewalk improvements, the Village Board may order permanent sidewalks built in accordance with this article upon the freeholder's making, executing, and delivering to the Village an agreement to the effect that the petitioning freeholder will pay the engineering service fee and that all other incidental construction costs until paid shall be a perpetual lien upon the real estate along which the freeholder desires such sidewalk to be constructed, and that the petitioner gives and grants to the Village the right to assess and levy the costs of such construction against his/her real estate abutting the sidewalk improvement, promising to pay such costs with interest. The total cost of such improvement shall be levied, allocated, financed, and specially assessed as provided by law.

B. In the event the property owner is a nonresident of the county in which the property lies, the Village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.



## Article 4 – Dikes

### SECTION 6-401: ERECTION AND MAINTENANCE

The Village Board may by ordinance provide for the erection and maintenance of such dikes as may be deemed necessary for the protection of the citizens of the Village against flood and surface waters. The Board may exercise the power of eminent domain to acquire easements and rights-of-way over real estate situated either within or not more than two miles outside the corporate limits of the Village for said purpose of constructing ditches or dikes and condemning real estate for such purpose in accordance with the applicable Nebraska statutes. In the exercise of such condemnation proceedings, the Village shall be liable for the land actually taken and for any consequential damages to other lands damaged by the construction of such improvement, and is authorized to pay such damages out of any available funds on hand or by the issuance of bonds as provided by law. **(Neb. Rev. Stat. §17-529.01)**

### SECTION 6-402: COOPERATION WITH U. S. GOVERNMENT

The Village of Waterloo is authorized to enter into agreements with the United States government for the purpose of protecting the Village against floods. When necessary to obtain federal funds for that purpose, the Village Board may agree to:

- A. Provide without cost to the United States all lands, easements and rights-of-way necessary for the construction of flood control projects;
- B. Hold and save the United States free and harmless from damages due to the construction works; and
- C. Maintain and operate all the flood control works after completion in accordance with regulations prescribed by the Secretary of the Army of the United States. **(Neb. Rev. Stat. §17-529.02)**



## **Article 5 – Penal Provision**

### **SECTION 6-501: 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.