TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: LEISURE AND RECREATION

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Cross-reference:

Library Board, see § *32.02*

PARKS

§ 90.01 OPERATION AND FUNDING.

The municipality owns and operates the municipal parks and other recreational areas through the Park Superintendent. The Board of Trustees, for the purpose of defraying the cost of the care, management, and maintenance of the municipal park may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all taxable property within the corporate limits. The revenue from the said tax shall be known as the park fund and shall remain in the custody

of the Municipal Treasurer. The Park Superintendent with permission of the Board of Trustees, shall have the authority to adopt rules and regulations for the efficient management of the municipal parks and other recreational areas of the municipality. The Park Superintendent shall not enter into a contract of any nature which involves an expenditure of funds, except for ordinary operating expenses, unless the contract has been approved by resolution of the majority of the members of the Board of Trustees prior to the contractual agreement.

Statutory reference:

Recreation centers and areas generally, see Neb. RS 17-948 through 17-952

§ 90.02 INJURY TO PROPERTY.

It shall be unlawful for any person maliciously or willfully to cut down, injure, or destroy any tree, plant, or shrub. It shall be unlawful for any person to injure or destroy any sodded or planted area or injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the municipal parks and recreational areas. No person shall commit any waste on or litter the municipal parks or other public grounds.

Penalty, see § 10.99

Statutory reference:

Littering of public and private property, see Neb. RS 28-523

LIBRARY

§ 90.40 OPERATION AND FUNDING.

(A) The municipality owns and manages the Municipal Library through the Library Board. The Board of Trustees, for the purpose of defraying the cost of the management, purchases, improvements, and maintenance of the Library may each year levy a tax not exceeding the maximum limit prescribed by state law, on the taxable value of all taxable property within the municipality. The revenue from the tax shall be known as the Library Fund, which fund shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the Municipal Library. The Library Fund shall at all times be in the custody of the Municipal Treasurer.

(B) The Board shall have and exercise such power as may be necessary to carry out the spirit and intent of Neb. RS 51-201 through 51-219 in establishing and maintaining the Library and reading room. (Neb. RS 51-211)

(C) The Board may pass such other rules and regulations for the operation of the Library as may be proper for its efficient operation. All actions by the Board shall be under the supervision and control of the Board of Trustees.

(D) The Board shall have the authority to appoint a Librarian and assistants, to fix their compensation, and to remove such appointees at pleasure. (Neb. RS 51-211)

(E) The Board shall have supervisory authority over all employees of the Library including the Librarian.

Statutory references:

Authority to establish library, Neb. RS 51-201
Library board required if library established, Neb. RS 51-202 and 51-204
Authority to adopt bylaws, rules, and regulations, Neb. RS 51-205 and 51-211
Control of expenditures, collections, donations, buildings, and grounds, Neb. RS 51-207
Handling of taxes and other funds by municipal treasurer, Neb. RS 51-209
Authority to acquire property for library building, Neb. RS 51-210
Authority to charge for nonbasic services, Neb. RS 51-211 and 51-212
Discrimination prohibited, Neb. RS 51-211
Authority to regulate use of library, Neb. RS 51-212
Annual report required, Neb. RS 51-213
Recovery of penalties, Neb. RS 51-214
Donations to library, Neb. RS 51-215
Sale and conveyance of real estate, Neb. RS 51-216
Deposit and use of private materials, Neb. RS 51-219

§ 90.41 COST OF USE.

(A) Except as provided in division (B) of this section, the Municipal Library and reading room shall be free of charge for the use of the inhabitants of the municipality, subject always to such reasonable regulations as the Library Board may adopt to render the Library of the greatest use to such inhabitants. The Librarian may exclude from the use of the Library and reading rooms any person who willfully violates or refuses to comply with rules and regulations established for the government thereof. (Neb. RS 51-201, 51-212)

(B) The Library shall make its basic services available without charge to all residents of the municipality. The Board may fix and impose reasonable fees, not to exceed the Library's actual cost, for nonbasic services. (Neb. RS 51-211)

(C) For purposes of this section:

(1) Basic services shall include, but not be limited to, free loan of circulating print and nonprint materials from the local collection and general reference and information services; and

(2) Nonbasic services shall include, but not be limited to, use of:

(a) Photocopying equipment;

(b) Telephones, facsimile equipment, and other telecommunications equipment;

(c) Media equipment;

(d) Personal computers; and

(e) Videocassette recording and playing equipment. (Neb. RS 51-201.01)

§ 90.42 DISCRIMINATION PROHIBITED.

No library service shall be denied to any person because of race, sex, religion, age, color, national origin, ancestry, physical handicap, or marital status.
(Neb. RS 51-211)

§ 90.43 RULES AND REGULATIONS; PENALTIES.

(A) The Library Board may adopt such bylaws, rules, and regulations for its own guidance and for the government of the Municipal Library and reading room as it may deem expedient, not inconsistent with Neb. RS 51-201 to 51-219. (Neb. RS 51-205)

(B) The Library Board may establish rules and regulations for the government of the Library as may be deemed necessary for its preservation and to maintain its usefulness and efficiency. The Board may fix and impose, by general rules, penalties and forfeitures for trespasses upon or injury to the Library grounds, rooms, books, or other property, for failure to return any book, or for violation of any bylaw, rule, or regulation. (Neb. RS 51-211)

(C) Penalties imposed or accruing by any bylaw or regulation of the Board and any court costs and attorney's fees may be recovered in a civil action before any court having jurisdiction, such action to be instituted in the name of the Library Board. Money, other than court costs and attorney's fees, collected in such actions shall be placed in the treasury of the municipality to the credit of the Library Fund. Attorney's fees collected pursuant to this section shall be placed in the treasury of the Municipality and credited to the budget of the Municipal Attorney's office. (Neb. RS 51-214)

§ 90.44 CONTROL OF FUNDS, BUILDINGS, AND GROUNDS.

(A) The Library Board shall have exclusive control of expenditures, of all money collected or donated to the credit of the Library Fund, of the renting and construction of any library building, and the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased or set apart for that purpose. (Neb. RS 51-207)

(B) Any money collected by the Library shall be turned over monthly by the Librarian to the Municipal Treasurer along with a report of the sources of the revenue.

(C) All taxes levied or collected and all funds donated or in any way acquired for the erection, maintenance, or support of the Library shall be kept for the use of the Library separate and apart from all other funds of the municipality, shall be drawn upon and paid out by the Municipal Treasurer upon vouchers signed by the President of the Library Board and authenticated by the Secretary of the Board, and shall not be used or disbursed for any other purpose or in any other manner. (Neb. RS 51-209)

(D) The municipality may establish a public library sinking fund for major capital expenditures. (Neb. RS 51-209)

§ 90.45 ANNUAL REPORT.

The Library Board shall, on or before the second Monday in June in each year, make a report to the Board of Trustees of the condition of its trust on June 1 of such year, showing all money received or expended; the number of books and periodicals on hand; newspapers and current literature subscribed for or donated to the reading room; the number of books and periodicals ordered by purchase, gift, or otherwise obtained during the year, and the number lost or missing; the number of and character of books loaned or issued, with such statistics, information and suggestions as it may deem of general interest, or as the Board of Trustees may require, which report shall be verified by affidavit of the President and Secretary of the Library Board.
(Neb. RS 51-213)

§ 90.46 LIBRARY BUILDING.

(A) The Library Board may purchase or lease grounds, exercise the power of eminent domain, and condemn real estate for the purpose of securing a site for a Library building. The procedure to condemn property shall be exercised in the manner set forth in Neb. RS 76-704 through 76-724. (Neb. RS 51-210)

(B) The Board may erect, lease, or occupy an appropriate building for the use of the Library. (Neb. RS 51-211)

§ 90.47 DONATIONS.

Any person may make donation of money, lands, or other property for the benefit of the Municipal Library. The title to property so donated may be made to and shall vest in the Library Board and their successors in office, and the Board shall thereby become the owners thereof in trust to the uses of the Municipal Library.
(Neb. RS 51-215)

§ 90.48 SALE AND CONVEYANCE OF REAL ESTATE.

The Library Board may, by resolution, direct the sale and conveyance of any real estate owned by the Board or by the Municipal Library, which is not used for library purposes, or of any real estate so donated or devised to the Board or to Library upon such terms as the Board may deem best and as otherwise provided in Neb. RS 51-216.
(Neb. RS 51-216)

§ 90.49 BOOK LABELING.

It shall be the duty of the Librarian to label, or cause to be labeled, with a printed or stamped label, proof of Municipal ownership on each book, and also to write the proof on the 30th page of each volume.
Statutory reference:
Authority of Library Board to adopt rules and regulations, Neb. RS 51-205 and 51-211

§ 90.50 BOOKS ISSUED.

The Librarian shall keep, or cause to be kept, a register of all books issued and returned at the time they shall so be issued and returned. None of the books shall be detained more than 14 days without being renewed. No book may be renewed more than two consecutive times by any person without the special permission of the Librarian or an authorized employee of the Municipal Library.
Statutory reference:
Authority of Library Board to adopt rules and regulations, Neb. RS 51-205 and 51-211

§ 90.51 IMPROPER BOOK REMOVAL.

It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book from the Library, without the consent of the Librarian, or an authorized employee of the Library. Any person removing a book from the Library without properly checking it out shall be deemed to be guilty of an offense.
Penalty, see § 10.99
Statutory reference:
Authority of Library Board to adopt rules and regulations, Neb. RS 51-205 and 51-211

§ 90.52 PENALTIES FOR DAMAGED AND LOST BOOKS.

Any person who injures or fails to return any book taken from the Library shall forfeit and pay to the Library not less than the value of the book in addition to any replacement costs and penalty which the Library Board may assess.

Statutory reference:

Authority of Library Board to adopt rules and regulations, Neb. RS 51-205 and 51-211

§ 90.53 DISPOSAL OF SURPLUS AND DAMAGED BOOKS.

The Library Board may authorize the sale, exchange, or disposal of any surplus, damaged, defective, obsolete, or duplicate books in the Library. Records shall be kept of any such surplus, damaged, defective, obsolete, or duplicate books so disposed of.

Statutory reference:

Authority of Library Board to adopt rules and regulations, Neb. RS 51-205 and 51-211

CHAPTER 91: FIRE REGULATIONS

Section

Fire Prevention

91.01 Open burning ban; waiver

Poisonous and Flammable Gases; Explosives

91.20 Petroleum gas
91.21 Poisonous and flammable gases
91.22 Bullets
91.23 Blasting permit
91.24 Transportation

Fireworks

91.40 Definition
91.41 Permitted fireworks
91.42 Throwing firecrackers
91.43 Sale

FIRE PREVENTION

§ 91.01 OPEN BURNING BAN; WAIVER.

(A) There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land.

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

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

(D) The municipal Fire Chief may adopt and promulgate rules and regulations listing the conditions acceptable for issuing a permit to conduct open burning under division (B) of this section.

(E) The municipal Fire Department may charge a fee not to exceed $10 for each such permit issued. This fee shall be remitted to the Board of Trustees for inclusion in the general funds allocated to the Fire Department. Such funds shall not reduce the tax requirements for the Fire Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under division (B) of this section in the course of such state's or political subdivision's official duties.

Statutory reference:

Statewide ban; exemptions, see Neb. RS 81-520.01

POISONOUS AND FLAMMABLE GASES; EXPLOSIVES

§ 91.20 PETROLEUM GAS.

Any person desiring to store or keep in their possession liquefied petroleum gas shall place the containers outside of buildings on nonflammable docks or platforms, and no such container shall at any time be stored within a building of any kind.

Penalty, see § 10.99

Statutory reference:

Authority to regulate, see Neb. RS 17-549

§ 91.21 POISONOUS AND FLAMMABLE GASES.

Any person, firm, or corporation desiring to store or keep in the municipality for any period of time any form of poisonous or flammable gas or liquefied petroleum gas or add to, enlarge, or replace any facility used for the storage of such gases, must first get permission from the Board of Trustees. The Board of Trustees shall require the name of the gas, the place of storage, and the amount of gas stored. If permission is granted, the Board of Trustees shall prescribe such rules, regulations, and precautionary actions as they may deem necessary. Permit requirements for the initial construction or location of storage facilities shall not apply to those facilities in existence on the effective date of the ordinance enacting this section, provided that any such present use that is discontinued for a period of 60 days shall

not be revived without a permit. The provisions of this section shall be controlling throughout the municipality and throughout its zoning jurisdiction.
Penalty, see § 10.99
Statutory reference:
Authority to regulate, see Neb. RS 17-549
Authority throughout zoning jurisdiction, see Neb. RS 17-1001
Authority to regulate nuisances, see Neb. RS 18-1720

§ 91.22 BULLETS.

Cartridges, shells, and percussions caps shall be kept in their original containers away from flame, flammable materials, and high explosives.

§ 91.23 BLASTING PERMIT.

In addition to notifying the Municipal Fire Department pursuant to Neb. RS 28-1233(3), any person desiring to discharge explosive materials within the municipality shall secure a permit from the Board of Trustees and shall discharge such explosive materials in conformance with the conditions specified in the permit. In no case shall any person perform blasting operations unless operating under the direct supervision of a person in possession of a valid user's permit issued by the Nebraska State Patrol.

§ 91.24 TRANSPORTATION.

Any person wishing to transport high explosives in the municipality shall first acquire a permit from the Board of Trustees and shall take such precautions and use such route as they may prescribe. Nothing herein shall be construed to apply to the county police, or any of the Armed Services of the United States. No vehicle transporting explosives shall make an unscheduled stop for longer than five minutes within the municipality and in the event of mechanical failure, immediate notice of such breakdown shall be given the County Sheriff, who shall then prescribe such precautions as may be necessary to protect the residents of the municipality and a reasonable time for removal of the vehicle from the municipality.

FIREWORKS

§ 91.40 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

FIREWORKS. Any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation and which meets the definition of common or special fireworks set forth by the United States Department of Transportation in Title 49, Code of Federal Regulations.
(Neb. RS 28-1241)
Statutory reference:
Authority, see Neb. RS 17-556

§ 91.41 PERMITTED FIREWORKS.

(A) It shall be unlawful for any person to ignite or cause to be exploded fireworks or firecrackers of any description whatsoever, except sparklers, vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charges for the purpose of making a noise, color wheels, lady fingers, not exceeding 7/8 inch in length or 1/8 inch in diameter, total explosive composition not to exceed 50 milligrams each in weight, color wheels, and any other fireworks approved under Neb. RS 28-1247.
(Neb. RS 28-1241(7))

(B) The provisions of this section shall not apply to any fireworks to be used for purpose of public exhibitions or display under authorization of the Board of Trustees or to fireworks furnished for agricultural purposes pursuant to written authorization from the State Fire Marshal.
Penalty, see § 10.99
Statutory reference:
Authority, see Neb. RS 17-556
Unlawful fireworks, see Neb. RS 28-1244
Prohibitions not applicable, see Neb. RS 28-1245

§ 91.42 THROWING FIREWORKS.

It shall be unlawful for any person to throw any firecracker, or any object which explodes upon contact with another object; from or into a motor vehicle; onto any street, highway, or sidewalk; at or near any person; into any building; or into or at any group of persons.
Penalty, see § 10.99

§ 91.43 SALE.

It shall be unlawful for any person to sell, hold for sale, or offer for sale as a distributor, jobber, or retailer any fireworks without first obtaining a license from the State Fire Marshal. Licensees shall only sell fireworks which have been approved by the State Fire Marshal, and permissible fireworks may be sold at retail only between June 24 and July 5 of each year.
(Neb. RS 28-1246 - 28-1250) Penalty, see § 10.99

ORDINANCE NO. 2022-05

AN ORDINANCE DEFINING FIREWORKS AND RESTRICTING THE USE AND RETAIL SALES OF FIREWORKS, TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH, AND TO PROVIDE FOR AN EFFECTIVE DATE.

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

1. **Fireworks.** Sections 91.40 to 91.43 of the Code of Giltner are amended to read as follows:

§ 91.40: FIREWORKS DEFINED.

"Fireworks" shall mean any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation and which meets the definition of consumer or special fireworks set forth by the United States Department of Transportation in Title 49, Code of Federal Regulations. (Neb.Rev.Stat. § 28-1241)

§ 91.41: PERMITTED FIREWORKS; RESTRICTIONS ON DISCHARGE.

A. It shall be unlawful for any person to ignite or cause to be exploded fireworks or firecrackers of any description whatsoever, except consumer fireworks.

B. Fireworks may not be discharged except from June 24 through July 4 and only during the hours of 8:00 a.m. through 10:30 p.m., except that on July 3 and July 4, fireworks may be discharged from 8:00 a.m. through 12:00 midnight.

C. The provisions of this section shall not apply to any fireworks to be used for purpose of public exhibitions or display under authorization of the Village Board of Trustees or to fireworks furnished for agricultural purposes pursuant to written authorization from the State Fire Marshall.

§ 91.42: THROWING FIREWORKS.

It shall be unlawful for any person to throw any firework or any object which explodes upon contact with another object from or into a motor vehicle; onto any street, highway, or sidewalk; at or near any person; into any building; or into or at any group of persons. (Neb.Rev.Stat. § 28-1242)

§ 91.43: RETAIL SALES; PERMITS/LICENSES; RESTRICTIONS ON DISCHARGE; VIOLATION.

A. Any person having obtained a permit to sell permissible fireworks may sell or offer for sale such fireworks only from a temporary stand or enclosure erected or placed on real estate for that purpose. No fireworks shall be sold from permanent buildings or structures in the Village. Such temporary enclosures or stands shall be permitted to remain on real estate where permissible fireworks are sold for only the period beginning on June 22 through and including July 7 of each year. Any such temporary stand or enclosure shall not be located closer than fifty feet from any building, and at least one hundred feet from any station where gasoline and oil for motor vehicles is sold. Such temporary stand or enclosure shall not exceed five hundred square feet in size.

B. No person shall possess, sell, offer for sale, bring into the zoning jurisdiction of the Village any pyrotechnics commonly known as fireworks, other than permitted fireworks (Neb.Rev.Stat. § 28-1244).

C. Permissible fireworks may be sold or offered for sale in the Village of Giltner from June 24 through July 4 of each year. No matches shall be sold or distributed from any temporary fireworks stand.

D. Retail sales establishments shall, at all times, be supervised by a person of at least eighteen (18) years of age. Failure to comply with this regulation may result in immediate revocation of the retail license.

E. It shall be unlawful for any person to discharge fireworks within 300 feet of the premises where fireworks are sold.

F. The Village Board of Trustees may approve a fireworks display permit for special events, which permit shall specify the place, hours of display, fire protection requirements and public liability insurance limits.

G. In no event shall the possession, consumption, sale or use of alcoholic beverages be permitted on the premises designated for a special fireworks display.

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

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

Passed and approved this 8th day of August, 2022.

Cody D. Nuss, Chairperson of the Village Board

ATTEST:

Joan M. Eastman, Village Clerk

SEAL

SUSPENSION OF RULES

Whereupon it was moved by Trustee Jimmie Smith and seconded by Trustee Kyle Spotts that the statutory rules in regard to the passage and adoption of ordinances be suspended so that said Ordinance might be introduced, read, approved and passed at the same meeting. Trustee Cody Nuss instructed the Clerk to call the roll for the vote thereon. The Clerk called the roll and the following was the vote on this motion.

Yeas: Kyle Spotts, Jimmie Smith, Cody Nuss
Nays:
Absent: Dustin Antle
Motion: Approved

MOVED FOR FINAL PASSAGE

Read Ordinance by title and Trustee Kyle Spotts moved for final passage of Ordinance No. 2022-05. Seconded by Trustee Jimmie Smith.

The Clerk was then instructed by the Chairperson to call the roll for the vote on final passage of Ordinance No. 2022-05. The Clerk called the roll and the following was the vote on said Ordinance.

Yeas: Jimmie Smith, Kyle Spotts, Cody Nuss
Nays: —
Absent: Dustin Antle
Motion: Approved

Trustees of the Village Board, having voted in the affirmative for the passage and approval of said Ordinance No. 2022-05, the Chairperson declared said Ordinance duly passed and adopted as an ordinance of the Village of Giltner, Nebraska.

CERTIFICATE OF PASSAGE AND POSTING OF ORDINANCE NO. 2022-05

STATE OF NEBRASKA)
)
COUNTY OF HAMILTON) ss.
)
VILLAGE OF GILTNER)

I, the undersigned, duly elected, qualified and acting Clerk of the Village of Giltner, in the County of Hamilton, State of Nebraska, do hereby certify:

That the annexed and foregoing is a full, true and correct copy of Ordinance No. 2022-05 of said Village the same appears of record in the journal and ordinance book of said Village, and that said Ordinance was duly passed by the Board of Trustees of said Village on the 8th day of August, 2022, and was signed and approved by the Chairperson of said Village Board on the 8th day of August, 2022, and there being no newspaper published in said Village, three (3) copies of said Ordinance were duly posted by me on the 8th day of August, 2022, one in each of three (3) public places in said Village as follows:

Village Office, Giltner, Nebraska
Village Maintenance Shop
U.S. Post Office, Giltner, Nebraska

IN WITNESS WHEREOF, I have hereunto set my hand officially and affixed the seal of said Village this 9th day of August, 2022.

Joan M. Eastman
Joan M. Eastman, Village Clerk

(SEAL)

CHAPTER 92: HEALTH AND SAFETY

Section

General Provisions

92.01 Health regulations
92.02 Enforcement official
92.03 County Health Board

Nuisances

92.20 Definition
92.21 Abatement procedure
92.22 Jurisdiction
92.23 Adjoining land owners; intervention before trial
92.24 Dead or diseased trees

Cross-reference:

Board of Health, see Chapter 32

GENERAL PROVISIONS

§ 92.01 HEALTH REGULATIONS.

For the purpose of promoting the health and safety of the residents of the municipality, the Board of Health shall, from time to time, adopt such rules and regulations relative thereto and shall make such inspections, prescribe such penalties, and make such reports as may be necessary toward that purpose.

Statutory reference:

Authority to regulate, see Neb. RS 17-208

§ 92.02 ENFORCEMENT OFFICIAL.

The County Sheriff, as the quarantine officer, shall be the chief health officer of the municipality. It shall be his or her duty to notify the Board of Trustees and the Board of Health of health nuisances within the municipality and its zoning jurisdiction.

Statutory reference:

Quarantine officer, see Neb. RS 17-208

§ 92.03 COUNTY HEALTH BOARD.

It shall be the duty of the Board of Health to work closely with the County Health Board in protecting the health and welfare of the residents of the municipality.

92.04 Prevention of Spread of Communicable Disease, Illness or Poisoning

NUISANCES

§ 92.20 DEFINITION.

(A) *General definition.* A ***NUISANCE*** consists in doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

(1) Injures or endangers the comfort, repose, health, or safety of others;

(2) Offends decency;

(3) Is offensive to the senses;

(4) Unlawfully interferes with, obstructs, tends to obstruct, or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the municipality;

(5) In any way renders other persons insecure in life or the use of property; or

(6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

(B) *Specific definition.* The maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things are hereby declared to be ***NUISANCES***:

(1) Any odorous, putrid, unsound, or unwholesome grain, meat, hides, skins, feathers, vegetable matter, or the whole or any part of any dead animal, fish, or fowl;

(2) Privies, vaults, cesspools, dumps, pits, or like places which are not securely protected from flies or rats, or which are foul or malodorous;

(3) Filthy, littered, or trash-covered cellars, houseyards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings, or premises;

(4) Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the municipality;

(5) Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish, or any waste vegetable or animal matter in any quantity, provided that nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the municipality, nor the dumping of non-putrefying waste in a place and manner approved by the health officer;

(6) Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles;

(7) Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of the articles or materials create a condition in which flies or rats may breed or multiply, or which may be a fire danger or which are so unsightly as to depreciate property values in the vicinity thereof;

(8) Any unsightly building, billboard, or other structure, or any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished, which buildings, billboards, or other structures are either a fire hazard, a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity thereof;

(9) All places used or maintained as junk yards, or dumping grounds, or for the wrecking and dissembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof;

(10) Stagnant water permitted or maintained on any lot or piece of ground;

(11) Stockyards, granaries, mills, pig pens, cattle pens, chicken pens or any other place, building or enclosure, in which animals or fowls of any kind are confined or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when the places in which the animals are confined, or the premises on which the vegetable or animal matter is located are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom to the annoyance of inhabitants of the municipality or are maintained and kept in such a manner as to be injurious to the public health; or

(12) All other things specifically designated as nuisances elsewhere in this code.

Penalty, see § 10.99

Statutory reference:

Authority to regulate and abate nuisances, see Neb. RS 18-1720

§ 92.21 ABATEMENT PROCEDURE.

(A) It shall be the duty of every owner or occupant of real estate in the municipality to keep such real estate free of public nuisances. Upon determination by the Board of Health that the owner or occupant has failed to keep such real estate free of public nuisances, notice to abate and remove such nuisance and notice of the right to a hearing before the Board of Trustees and the manner in which it may be requested shall be given to the owner or occupant, or the owner's or occupant's duly authorized agent, by personal service or certified mail. Such notice shall describe the condition as found by the Board of Health and state that the condition has been declared a public nuisance and that the condition must be remedied at once. Within ten days after the receipt of such notice, if the owner or occupant of the real estate does not request a hearing or fails to comply with the order to abate and remove the nuisance, the municipality shall have such work done and may levy and assess the costs and expenses of the work upon the real estate so benefited in the same manner as other special taxes for improvements are levied and assessed.

(B) If the owner or occupant requests in writing a hearing with the Board of Trustees, the Board of Trustees shall fix a time and place at which a hearing will be held. Notice of the hearing shall be given by personal service or certified mail and require the owner or occupant to appear before the Board of Trustees to show cause why such condition should not be found to be a public nuisance and remedied. Such notice shall be given not less than seven, nor more than 14 days before the time of the hearing. Upon the date fixed for the hearing and pursuant to the notice, the Board of Trustees shall hear all objections made by the owner or occupant and shall hear evidence submitted by the Board of Health. If after consideration of all the evidence, the Board of Trustees finds that the condition is a public nuisance, it shall, by resolution, order and direct the owner or occupant to remedy the public nuisance at once. If the owner or occupant refuses or neglects to promptly comply with the order of the Board of Trustees, the Board of Trustees shall proceed to cause the abatement of the described public nuisance and may levy and assess the costs and expenses of the work upon the real estate so benefited in the same manner as other special taxes for improvements are levied and assessed.

Statutory reference:

Authority to regulate and abate nuisances, see Neb. RS 18-1720

§ 92.22 JURISDICTION.

The Board of Health is directed to enforce this municipal code against all nuisances. The jurisdiction of the Board of Health and court shall extend to and the territorial application of this chapter shall include all territory adjacent to the limits of the municipality within one mile thereof and all territory within the corporate limits.

Statutory reference:

Zoning jurisdiction, see Neb. RS 17-1001

Authority to regulate and abate nuisances, the Neb. RS 18-1720

§ 92.23 ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL.

In cases of appeal from an action of the Board of Trustees condemning real property as a nuisance or as dangerous under the police powers of the municipality, the owners of the adjoining property may intervene in the action at any time before trial.

(Neb. RS 19-710)

§ 92.24 DEAD OR DISEASED TREES.

(A) It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits of the municipality.

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

(C) Notice to abate and remove such nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. Within 30 days after the receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the municipality may have such work done and may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied or assessed.

Cross-reference:

Overhanging branches prohibited, see § 93.006

Statutory reference:

Authority to regulate and abate dead and diseased trees, see Neb. RS 17-555

Authority to regulate and abate nuisances, see Neb. RS 18-1720

Nuisances prohibited, see Neb. RS 28-1321

Resolution # 42.04

Central District Health Department

Title ___ Chapter __
Prevention of Spread of Communicable Disease, Illness, or Poisoning

001 Authority

These regulations are enacted pursuant to Neb. Rev. Stat. § 71-501, and 71-1626 *et seq.* and apply to the exercise of authority by the Department to order Directed Health Measures necessary to prevent the spread of communicable disease, illness or poisoning.

Nothing in these regulations precludes the Department from requesting voluntary compliance with beneficial health measures.

Nothing in these regulations precludes the Department from referring a matter covered by these regulations to the State Public Health Department at any time.

002 Definitions

Chief Medical Officer: means the state Chief Medical Officer appointed pursuant to Neb. Rev. Stat. § 81-3201, if the State Public Health Department Director is not a Medical Doctor.

Communicable Disease, Illness, or Poisoning: means an illness due to an infectious or malignant agent, which is capable of being transmitted directly or indirectly to a person from an infected person or animal through the agency of an intermediate animal, host or vector, or through the inanimate environment.

Decontamination: means the removal or neutralizing of contaminating material, such as radioactive materials, biological materials, or chemical warfare agents, from a person or object to the extent necessary to preclude the occurrence of foreseeable adverse health effects. Decontamination includes remediation or destruction of sources of communicable disease or biological, chemical, radiological or nuclear agents.

Department: means the Central District Health Department

Directed Health Measures: means any measure, whether prophylactic or remedial, intended and directed to prevent or limit the spread of communicable disease or to prevent or limit public exposure to or spread of biological, chemical, radiological or nuclear agents.

Director: means the Director of the Central District Health Department, or a person acting on behalf of the Director as his or her designee.

Health Care Facility: means any facility licensed under the Health Care Facility Licensure Act, and shall include such additional clinics not licensed under that act as may be identified in specific orders issued pursuant to these regulations.

Exhibit A

Health Care Provider: means any credentialed person regulated under the Advanced Practice Registered Nurse Act, the Emergency Medical Services Act, the Licensed Practical Nurse-Certified Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nurse Practice Act, the Occupational Therapy Practice Act, the Uniform Licensing Law, or sections 71-3702 to 71-3715.

Isolation: means the separation of people who have a specific communicable disease from healthy people and the restriction of their movement to stop the spread of that disease.

Local Public Health Department: means a local public health department as defined by Neb. Rev. Stat. § 71-1626 and its governing officials.

Personal Protective Equipment (PPE): means equipment ordered or used to protect an individual from communicable disease, illness or poisoning.

Premises: means land and any structures upon it.

Public Health Authority: means any individual or entity charged by law with a duty or authority to enforce or carry out a public health function.

Quarantine: directed to identified individuals or defined populations means the restriction of, or conditions upon, the movement and activities of people who are not yet ill, but who have been or may have been exposed to an agent of communicable disease, illness, or poisoning and are therefore potentially capable of communicating a disease, illness, or poison. The purpose is to prevent or limit the spread of communicable disease, illness or poison. Quarantine of individuals or defined populations generally involves the separation of the quarantined, from the general population.

Quarantine and isolation: These terms *both* include restriction of, or conditions upon, the movement and activities of people to prevent or limit the spread of communicable disease, illness or poisoning. In circumstances where animals are agents of communicable disease, illness or poisoning, either term may apply to such animals.

Quarantine Officer: means the statutorily established quarantine officer for a municipality or county, usually the chief executive or top law enforcement officer.

Quarantine of premises: means restriction of the movement of all people upon, into or out from those premises to prevent or limit the spread of communicable disease or to prevent or limit public exposure to or spread of biological, chemical, radiological or nuclear agents.

State Public Health Department: means the Nebraska Department of Health and Human Services Regulation and Licensure or its successor.

003 Findings

A. When the Director receives information from:

1. the United States Department of Health and Human Services Centers for Disease Control and Prevention;
2. the State Public Health Department;
3. any other Local Public Health Department;
4. communicable disease surveillance conducted by the Central District Health Department; or
5. treating health care providers or health care facilities

that a member or members of the public have been, or may have been exposed to a communicable disease, illness or poisoning by biological, chemical radiological or nuclear agents, the Director will review all information under the following provisions to determine if any Directed Health Measure should be ordered.

B. Before ordering a Directed Health Measure, the Director:

1. Must find both:
   a. that a member or members of the public have been, or may have been exposed; and
   b. that Directed Health Measures exist to effectively prevent, limit or slow the spread of communicable disease or to prevent, limit or slow public exposure to or spread of biological, chemical, radiological or nuclear agents; and

2. Must find one or more of the following:
   a. that the exposure presents a risk of death or serious long-term disabilities to any person;
   b. that the exposure is wide-spread and poses a significant risk of harm to people in the general population; or
   c. that there is a particular subset of the population that is more vulnerable to the threat and thus at increased risk;

3. May make further finding, in assessing the nature of the risk presented:
   a. Whether the threat is from a novel or previously eradicated infectious agent or toxin;
   b. Whether the threat is or may be a result of intentional attack, accidental release, or natural disaster;
   c. Whether any person(s) or agent(s) posing the risk of communicating the disease are non-compliant with any measures ordered by a health care provider.

C. If affirmative findings are made pursuant to subsection 003 B. and the Director further finds that a delay in the imposition of an effective Directed Health Measure would significantly jeopardize the ability to prevent or limit the transmission of a communicable disease, illness or poisoning or pose unacceptable risks to any person or persons, the Director may impose any of the Directed Health Measures set out in section 004.

The Director's findings will be reported to the State Public Health Department Communicable Disease Control program.

The Director may refer the findings to the Director of the State Public Health Department and defer to that Director for the imposition of measures under the State Public Health Department's authority.

004 Directed Health Measures

A. Directed Health Measures which may be ordered by the Director are:

1. Quarantine:
   Of individuals,
   Of defined populations,
   Of buildings and premises, or of defined areas, public and private, or
   Of animals

   The methods of quarantine may require the individual or population to remain within defined areas or to restricted activities, which may include "work quarantine" restricting individuals or defined populations to their residence or workplace.

   In the event that the quarantine of affected premises posing an immediate threat to the public health and safety is determined to be incapable of effective enforcement, the Department may act alone or in concert with any local jurisdiction having condemnation and nuisance abatement authority, to carry out measures effective to remove the threat, including safe demolition of the premises.

2. Isolation of individuals:
   At home,
   In a health care facility, or
   In another designated area.

3. Decontamination.

4. Such other protocols or measures as may be identified as effective against public health threats by the American Public Health Association, the United States Department of Health and Human Services Centers for Disease Control and Prevention or other similar authority.

B. Any of the Directed Health Measures may include, and are not limited to, any of the following:

1. Periodic monitoring and reporting of vital signs.

2. Use of PPE for the performance of specified tasks or at specified premises.

3. Specific infection control measures including cleaning and disposal of specified materials.

C. Any Order of the Director may include temporary seizure or commandeering of personal or real property for public health purposes.

D. Directed Health Measures may be directed to an individual, group of individuals, or a population, or directed to the public at large with regard to identified premises or activities and may also include health care providers, health care facilities, health care authorities and public and private property including animals.

005 Procedure

A. In making the finding under subsection 003 and determining the measures under subsection 004, the Director will consult with the medical consultant of the Central District Health Department, and with the state's Chief Medical Officer or other medical and communicable disease control personnel of the State Public Health Department. The Director may make use of the expertise and observations of any health care provider who has treated a person subject to consideration for a Directed Health Measure. The Director will also consider the directives and guidelines issued by the American Public Health Association and the United States Department of Health and Human Services Centers for Disease Control and Prevention.

B. In determining the nature, scope and duration of the Directed Health Measure ordered, the Director, based on the information available at the time of the determination, will:

1. Assess the situation and identify the least restrictive practical means of isolation, quarantine, decontamination or imposition of other directed health measures on persons or property that effectively protects unexposed and susceptible individuals.

2. When isolation or quarantine is ordered, select a place that will allow the most freedom of movement and communication with family members and other contacts without allowing disease transmission to others and allow the appropriate level of medical care needed by isolated or quarantined individuals to the extent practicable.

3. For communicable diseases, order that the duration of the Directed Health Measure should be no longer than necessary to ensure that the affected individual or group no longer poses a public health threat.

4. Give consideration to separation of isolated individuals from quarantined individuals. However, if quarantine or isolation is possible in the affected individual's (s') home, individuals may be isolated with quarantined individuals.

5. Give consideration to providing for termination of the Order under the following circumstances:

If laboratory testing or examination is available to rule out a communicable condition, the Order may provide proof of the testing or examination negative result will be accepted to terminate a Directed Health Measure.
If treatment is available to remedy a communicable condition, the Order may provide that proof of successful treatment will be accepted to terminate a Directed Health Measure.

006 Order

A. Upon a finding pursuant to subsection 003 and determination pursuant to subsection 004, the Director will issue an Order directed to the affected individual, individuals, entity or entities.

B. Prior to issuing any Order, the Director will, as required by Neb. Rev. Stat. §71-1631(10), obtain approval of the Directed Health Measure ordered by the State Public Health Department.

C. Orders of the Director imposing Directed Health Measures are effective immediately.

D. Orders will contain the finding and determination and will order the affected person or persons to comply with the terms of the Order, and will also include the following:

1. Orders of Isolation will contain the following:
   a. Name and identifying information of the individual(s) subject to the order;
   b. Brief statement of the facts warranting the isolation;
   c. Conditions for termination of the order;
   d. Duration of isolation period;
   e. The place of isolation;
   f. Required conditions to be met for treatment;
   g. Required conditions to be met for visitation if allowed;
   h. Instructions on the disinfecting or disposal of any personal property of the individual;
   i. Required precautions to prevent the spread of the subject disease; and
   j. Individual's right to an independent medical exam at their own expense.

2. Orders of Quarantine will contain the following:
   a. Name, identifying information or other description of the individual, group of individuals, premises or geographic location subject to the order;
   b. Brief statement of the facts warranting the quarantine;
   c. Conditions for termination of the order;
   d. Specified duration of the quarantine;
   e. The place or area of quarantine;
   f. No contact except as approved by the Director or designee;
   g. Symptoms of the subject disease and a course of treatment;
   h. Instructions on the disinfecting or disposal of any personal property;
   i. Precautions to prevent the spread of the subject disease; and,

j. Individual's right to an independent medical exam at their own expense..

3. Orders of Decontamination will contain the following:
   a. Description of the individual, group of individuals, premises, or geographic location subject to the order;
   b. Brief statement of the facts warranting the quarantine;
   c. Instructions on the disinfecting or disposal of any personal property; and,
   d. Precautions to prevent the spread of the subject disease.

007 Notice

A. Orders directed to individuals will be delivered in a manner reasonably calculated to give the individual actual notice of the terms of the Order consistent with the threat of communicable disease. Service may be made by law enforcement personnel or any other person designated by the Director. Personal delivery may be attempted, except in cases when personal delivery would present a risk of spread of disease or exposure to agents that cannot be avoided by measures reasonably available. Electronic transmission by e-mail or telefacsimile will be sufficient, provided that any available means of determining and recording receipt of such notice will be made. If electronic transmission is impossible or unavailable under the circumstances, oral communication by telephone or direct transmission of voice will be sufficient, and such communication will be memorialized at the time it is delivered.

B. Orders directed to groups of individuals or populations may be disseminated by mass media.

C. Orders directed to quarantine premises or geographic locations may be disseminated by mass media and will be posted at or near the premises or geographic location in order to be visible and effective to achieve the intended purpose. Copies of the Orders will be delivered to the owners or others in control of the premises, if known, in the same manner as Orders directed to individuals.

D. Copies of all Orders will be provided to the chief elected official(s) of the jurisdiction(s) in which the Order is implemented.

E. The Central District Health Department will send a copy of the Order to the State Public Health Department Communicable Disease Control program by telefacsimile, e-mail or the Health Alert Network system.

008 Enforcement

A. The Department may seek the assistance of the appropriate quarantine officer to enforce any Order.

B. Department personnel assigned to enforcement of any Order will promote the need for the Directed Health Measure and encourage individuals to comply with all aspects of the Order.

C. Any individual subject to an Order may at any time present evidence to the Director to show that the Order should be modified or terminated. The Director may or may not modify or terminate the Order in his or her sole discretion.

D. Any person subject to an Order under these regulations who does not comply may be referred to the County Attorney for prosecution or injunctive action under Neb. Rev. Stat. § 71-506 or § 71-1631.01.

009 Cooperation and Coordination

The Department may assist or seek the assistance of the State Public Health Department, quarantine officers, other Local Public Health Departments and other public health authorities authorized or required by law to carry out Directed Health Measures in carrying out those measures.

The Department may enter into Inter-local Cooperation agreements in furtherance of the provisions of this chapter, however, the absence of any such agreement will not preclude the Department from exercising its authority pursuant to these regulations.

Treating Health Care Providers must follow and aid affected individuals and populations in compliance with ordered Directed Health Measures.

010 Reporting

Treating Health Care Providers, Health Care Facilities and other persons must report any information known to them concerning any individual or entity subject to an Order of quarantine, isolation or other Directed Health Measure that is not in compliance with the Order. The report must be made to the State Public Health Department and local law enforcement.

(4) Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the municipality;

(5) Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish, or any waste vegetable or animal matter in any quantity, provided that nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the municipality, nor the dumping of non-putrefying waste in a place and manner approved by the health officer;

(6) Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles;

(7) Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of the articles or materials create a condition in which flies or rats may breed or multiply, or which may be a fire danger or which are so unsightly as to depreciate property values in the vicinity thereof;

(8) Any unsightly building, billboard, or other structure, or any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished, which buildings, billboards, or other structures are either a fire hazard, a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity thereof;

(9) All places used or maintained as junk yards, or dumping grounds, or for the wrecking and dissembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof;

(10) Stagnant water permitted or maintained on any lot or piece of ground;

(11) Stockyards, granaries, mills, pig pens, cattle pens, chicken pens or any other place, building or enclosure, in which animals or fowls of any kind are confined or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when the places in which the animals are confined, or the premises on which the vegetable or animal matter is located are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom to the annoyance of inhabitants of the municipality or are maintained and kept in such a manner as to be injurious to the public health; or

(12) All other things specifically designated as nuisances elsewhere in this code.
Penalty, see § 10.99
Statutory reference:
Authority to regulate and abate nuisances, see Neb. RS 18-1720

§ 92.21 ABATEMENT PROCEDURE.

(A) It shall be the duty of every owner or occupant of real estate in the municipality to keep such real estate free of public nuisances. Upon determination by the Board of Health that the owner or occupant has failed to keep such real estate free of public nuisances, notice to abate and remove such nuisance and notice of the right to a hearing before the Board of Trustees and the manner in which it may be requested shall be given to the owner or occupant, or the owner's or occupant's duly authorized agent, by personal service or certified mail. Such notice shall describe the condition as found by the Board of Health and state that the condition has been declared a public nuisance and that the condition must be remedied at once. Within ten days after the receipt of such notice, if the owner or occupant of the real estate does not request a hearing or fails to comply with the order to abate and remove the nuisance, the municipality shall have such work done and may levy and assess the costs and expenses of the work upon the real estate so benefited in the same manner as other special taxes for improvements are levied and assessed.

(B) If the owner or occupant requests in writing a hearing with the Board of Trustees, the Board of Trustees shall fix a time and place at which a hearing will be held. Notice of the hearing shall be given by personal service or certified mail and require the owner or occupant to appear before the Board of Trustees to show cause why such condition should not be found to be a public nuisance and remedied. Such notice shall be given not less than seven, nor more than 14 days before the time of the hearing. Upon the date fixed for the hearing and pursuant to the notice, the Board of Trustees shall hear all objections made by the owner or occupant and shall hear evidence submitted by the Board of Health. If after consideration of all the evidence, the Board of Trustees finds that the condition is a public nuisance, it shall, by resolution, order and direct the owner or occupant to remedy the public nuisance at once. If the owner or occupant refuses or neglects to promptly comply with the order of the Board of Trustees, the Board of Trustees shall proceed to cause the abatement of the described public nuisance and may levy and assess the costs and expenses of the work upon the real estate so benefited in the same manner as other special taxes for improvements are levied and assessed.
Statutory reference:
Authority to regulate and abate nuisances, see Neb. RS 18-1720

§ 92.22 JURISDICTION.

The Board of Health is directed to enforce this municipal code against all nuisances. The jurisdiction of the Board of Health and court shall extend to and the territorial application of this chapter shall include all territory adjacent to the limits of the municipality within one mile thereof and all territory within the corporate limits.

Statutory reference:

Zoning jurisdiction, see Neb. RS 17-1001

Authority to regulate and abate nuisances, the Neb. RS 18-1720

§ 92.23 ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL.

In cases of appeal from an action of the Board of Trustees condemning real property as a nuisance or as dangerous under the police powers of the municipality, the owners of the adjoining property may intervene in the action at any time before trial.

(Neb. RS 19-710)

§ 92.24 DEAD OR DISEASED TREES.

(A) It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits of the municipality.

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

(C) Notice to abate and remove such nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. Within 30 days after the receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the municipality may have such work done and may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied or assessed.

Cross-reference:

Overhanging branches prohibited, see § 93.006

Statutory reference:

Authority to regulate and abate dead and diseased trees, see Neb. RS 17-555

Authority to regulate and abate nuisances, see Neb. RS 18-1720

Nuisances prohibited, see Neb. RS 28-1321

CHAPTER 93: PUBLIC WAYS AND PROPERTY

Section

Municipal Property

93.001 Definition
93.002 Maintenance and control
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93.054 Snow, debris, and the like on street prohibited

Cross-reference:

Street games, see § 131.02
Obstruction of public ways, see § 131.03

MUNICIPAL PROPERTY

§ 93.001 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

SIDEWALK SPACE. That portion of a street between curb lines and adjacent property lines.

§ 93.002 MAINTENANCE AND CONTROL.

The Board of Trustees shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the municipality and shall cause the same to be kept open and in repair and free from nuisances.
(Neb. RS 17-567(1))

§ 93.003 OBSTRUCTIONS.

(A) 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 chapter. Such trees and shrubs and their roots may be removed by the municipality at the expense of the owner of the property upon which the tree is located should the owner fail, or neglect, after notice, to do so. It shall be unlawful for any person, persons, firm, or corporation to obstruct, or encumber, by fences, gates, buildings, structures, or otherwise, any of the streets, alleys, or sidewalks. The public ways and property shall be considered to be obstructed when the owner or occupant of the adjacent property shall permit or suffer to remain on any premise owned or controlled by him or her any hedge, shrubbery, bush, or similar growth within two feet adjacent to the lot line whether there is a sidewalk abutting or adjoining such premise or not. It shall be the duty of owners and occupants to at all times keep trimmed and pruned all such similar growth. Whenever any such growth is allowed to grow within two feet of the lot line contrary to the provisions of this chapter, the Board of Trustees may pass a resolution ordering the owner or occupant to remove such obstructions within five days after having been served

with a copy of the resolution by the municipality stating that the municipality will do so and will charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided, or shall collect the same by civil suit brought in the name of the municipality against the owner or occupant. It shall be the duty of an owner or occupant engaged in construction of any building or improvement upon or near the public ways and property to have all excavations or exposures of any kind protected and guarded by suitable guards or barricades by day and by warning lights at night. In the event of failure, neglect, or refusal to comply with the provisions of this subchapter, it shall be the duty of the municipality to stop all work upon the buildings and improvements until suitable guards are erected and kept in the manner aforesaid. Trees and shrubs growing upon the lot line partially on public ground and partially upon the abutting property, or wholly upon the abutting property, but so close to the lot line as to interfere with the making of any public improvement or so that the roots thereof interfere with any utility wires or pipe shall be deemed an obstruction, and such trees, shrubs, and roots may be removed by the municipality pursuant to the procedure prescribed above. In the event the property owner is a non-resident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(B) Persons engaged in the erection, construction, reconstruction, wrecking, or repairing of any building, or the construction, or repair, of a sidewalk along any street, may occupy the public street space with such building material and equipment as long as is necessary if such persons shall make application to and receive a permit in writing from the municipal official in charge of municipal streets to do so, provided that no permit for the occupancy of the sidewalk space and more than 1/3 of the roadway of the public space adjacent to the real estate on which said building is to be constructed, erected, reconstructed, wrecked, or repaired shall be granted, and provided further that a suitable passageway for pedestrians shall be maintained within the public space included in the permit which shall be protected and lighted in the manner required by the official issuing the permit.
Penalty, see § 10.99

Statutory reference:

Authority to remove obstructions, see Neb. RS 17-555

Authority to regulate and abate obstructions, see Neb. RS 17-557 and 17-557.01

§ 93.004 WEEDS.

It is hereby the duty of the Utilities Superintendent or his or her duly authorized agent to view and inspect the sidewalk space within the corporate limits for growing weeds during the growing season, and if rank and noxious weeds are found growing thereon, he or she shall notify the owner or occupant thereof to cut down such weeds as close to the ground as can be practicably done and keep the weeds cut thereon in like manner during the growing season for weeds, provided that any weeds growing in excess of 12 inches on any sidewalk space shall be considered a violation of this section. In the event that the owner of the lot or parcel of land abutting said sidewalk space within the municipality is a non-resident of the municipality or cannot be found therein the notice may be given to any person having the care, custody, or control of such lot or parcel of land. In the event that there can be found no one within

the municipality to whom notice can be given, it shall be the duty of the Utilities Superintendent or his or her agent to post a copy of the notice on the premise and then to cut or cause the weeds thereon to be cut as therein provided and report the cost thereof in writing to the Board of Trustees. The cost shall then be audited and paid by the municipality and the amount thereof shall be assessed against the lot or parcel of land as a special tax thereon and shall be collected as are other taxes of the municipality or may be recovered by civil suit brought by the municipality against the owner of the parcel of land. In the event the property owner is a non-resident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.
Penalty, see § 10.99
Statutory reference:
Authority, see Neb. RS 17-563

§ 93.005 SIGNS AND CANOPIES.

No person, firm, or corporation shall erect, or maintain, any sign, signboard, poster, or rigid canopy over any street, sidewalk, alley, or on other public property without having first obtained a permit therefor. Permits for signs, canopies, posters, and signboards shall be issued by the Municipal Clerk, subject to the approval of the Utilities Superintendent. All signs and canopies extending over any public sidewalk, street, alley, or other public place must be securely fastened and constructed so that there will be no danger of the same being dislodged by ordinary winds, or falling from other causes. No sign or canopy shall be erected or maintained which extends over any public sidewalk, street, alley, or other public place in such a location as to obstruct the view of any traffic light, sign, or signal. Upon the written order of the governing body, any person owning or occupying the premise where such a sign, canopy, poster, or signboard is located, shall cause the same to be removed within the time limit specified on such notice.
Penalty, see § 10.99

§ 93.006 OVERHANGING BRANCHES.

The owner or occupant of any lot, piece, or parcel of ground abutting or adjacent to any street or sidewalk over which there extends the branches of trees shall at all times keep the branches or limbs thereof trimmed to the height of at least eight feet above the surface of the walk and at least 14 feet above the surface of the street. Whenever the limbs or branches of any tree or trees extend over streets or sidewalks contrary to the provisions herein so as to interfere with the lighting of the street from street lights or with the convenience of the public using the street or sidewalk, the Board of Trustees at any regular or special meeting may pass a resolution ordering the owner or occupant to cut or remove the obstructions within five days after having received a copy thereof from the Utilities Superintendent stating that the municipality will remove the branches and charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided, if the resolution is not complied with. In the event the property owner is a non-resident of the county in which the property lies, the

municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.
Penalty, see § 10.99
Cross-reference:
Pruning, see § 95.09
Statutory reference:
Authority to regulate, see Neb. RS 17-557 and 17-557.01

§ 93.007 SALE AND CONVEYANCE.

(A) Except as provided in division (I) of this section, the power of the municipality to convey any real and personal 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 and personal property and the manner and terms thereof, except that such real and personal property shall not be sold at public auction or by sealed bid when:

(1) Such property is being sold in compliance with the requirements of federal or state grants or programs;

(2) Such property is being conveyed to another public agency; or

(3) Such property consists of streets and alleys.

(B) The Board of Trustees may establish a minimum price for such real and personal 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 and personal property described in division (A) of this section and the terms thereof shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in the municipality.

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

(E) Upon the receipt of the remonstrance, the Board of Trustees, with the aid and assistance of the Election Commissioner or County Clerk, shall determine the validity and sufficiency of signatures on the remonstrance. The Board of Trustees shall deliver the remonstrance to the Election Commissioner

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

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

(G) Real estate now owned or hereafter owned by the municipality 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. RS 18-1001 to 18-1006.

(H) Following passage of the resolution directing a sale, publishing of the notice of the proposed sale, and passing of the 30-day right-of-remonstrance period, the property shall then be sold. Such sale

shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale. The Municipal Clerk shall upon passage of such ordinance certify the name of the purchaser to the Register of Deeds of the county in which the property is located.
(Neb. RS 17-503)

(I) Divisions (A) through (H) of this section shall not apply to the sale of real and personal property if the authorizing resolution directs the sale of an item or items of real and personal property, the total fair market value of which is less than $5,000. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the municipality 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. RS 17-503.01)

§ 93.008 ACQUISITION OF PROPERTY; CONSTRUCTION; ELECTIONS, WHEN REQUIRED.

(A) The municipality 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, municipal building, or community house for housing municipal enterprises and social and recreation purposes, and other public buildings, and maintain, manage, and operate the same for the benefit of the inhabitants of the municipality.

(B) Except as provided in division (C) of this section, before any such purchase can be made or building erected, the question shall be submitted to the electors of the municipality at a general municipal election or at an election duly called for that purpose, or as set forth in Neb. RS 17-954 and be adopted by a majority of the electors voting on such question.
(Neb. RS 17-953)

(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 municipality, 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 municipality equal in number to 15% of the registered voters of the municipality voting at the last regular municipal election held therein and is filed with the Board of Trustees. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be considered timely if filed or postmarked on or before the next business day. If a remonstrance with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the municipality at a general municipal election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then, nor within one year following the election, be purchased or constructed; or

(2) The Board of Trustees may proceed without providing the notice and right of remonstrance required in subdivision (C)(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. The purchase shall be approved by the Board of Trustees after notice and public hearing as provided in Neb. RS 18-1755.
(Neb. RS 17-953.01)

§ 93.009 ACQUISITION OF REAL PROPERTY; APPRAISAL.

The municipality shall not purchase, lease-purchase, or acquire for consideration real property having an estimated value of $100,000 or more unless an appraisal of such property has been performed by a certified real estate appraiser.
(Neb. RS 13-403)

§ 93.010 ACQUISITION OF REAL PROPERTY; PUBLIC MEETING.

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

§ 93.011 PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING; REQUIREMENTS.

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

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

(1) Any public works project with contemplated expenditures for the completed project that do not exceed $80,000;
(Neb. RS 81-3445, 81-3449(3), and 81-3453(3))

(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;
(Neb. RS 81-3449(4) and 81-3453(4))

(3) Performance of professional services for itself if the municipality appoints a municipal engineer or employs a full-time person licensed under the Engineers and Architects Regulation Act who is in responsible charge of architectural or engineering work;
(Neb. RS 81-3423, 81-3449(9), and 81-3453(6))

(4) The practice of any other certified trade or legally recognized profession;
(Neb. RS 81-3449(11) and 81-3453(7))

(5) Earthmoving and related work associated with soil and water conservation practices performed on any land owned by the municipality that is not subject to a permit from the Department of Natural Resources;
(Neb. RS 81-3449(13) and 81-3453(12))

(6) The work of employees and agents of the municipality performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land use regulations and their customary duties in utility and public works construction, operation, and maintenance;
(Neb. RS 81-3449(14) and 81-3453(13))

(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;
(Neb. RS 81-3453(10))

(8) The construction of municipal water wells as defined in Neb. RS 46-1212, the installation of pumps and pumping equipment into municipal water wells, and the decommissioning of municipal water wells, unless such construction, installation, or decommissioning is required by the municipality to be designed or supervised by an engineer or unless legal requirements are imposed upon the municipality as a part of a public water supply; and
(Neb. RS 81-3453(15))

(9) Any other activities described in Neb. RS 81-3449 to 81-3453.

Statutory reference:

Public service provider defined, see Neb. RS 81-3423

SIDEWALKS

§ 93.020 KEPT CLEAN.

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on the sidewalks

or to permit any snow, sleet, ice, mud, or other substance to remain upon the 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 9:00 a.m. the following day, provided that sidewalks within the residential areas of the municipality shall be cleaned within 24 hours after the cessation of the storm.
Penalty, see § 10.99
Statutory reference:
Authority to regulate, see Neb. RS 17-557

§ 93.021 MAINTENANCE.

Every owner of any lot, lots, or piece of land within the corporate limits shall at all times keep and maintain the sidewalk along and contiguous to the lot, lots, or pieces of land, as the case may be, in good and proper repair, and in a condition reasonably safe for travel for all travelers thereon. In the event that the owner or owners of any lot, lots, or lands, abutting on any street, avenue, or part thereof shall fail to construct or repair any sidewalk in front of his, her, or their lot, lots, or lands, within the time and in the manner as directed and required herein after having received due notice to do so, they shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk, and the Board of Trustees shall have power to cause any such sidewalks to be constructed or repaired and assess the costs thereof against such property. In the event the property owner is a non-resident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.
Penalty, see § 10.99

§ 93.022 REPAIR.

The municipal official in charge of sidewalks may require sidewalks of the municipality to be repaired. Notice to the owners of property upon which such sidewalks in disrepair are located shall require within 48 hours from issuance of notice the owners to make arrangements to have the sidewalk repaired. The repairs shall be completed within 21 days after issuance of the notice. No special assessment shall be levied against the property unless the owner neglects or refuses to repair within the time prescribed and in the event that such owner fails to repair, the municipality shall cause the repairs to be made and assess the property owner the expense of such repairs. In the event the property owner is a non-resident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

§ 93.023 USE OF SPACE BENEATH.

No person shall be allowed to keep or use the space beneath the sidewalk lying between lot line and curb line unless a permit therefor shall have been obtained from the governing body. Before any permit shall be granted, the applicant for said permit shall submit plans and specifications of any present or proposed construction to the Municipal Engineer. Should such plans or specifications be disapproved by the Engineer, no permit shall be granted therefor. All permits hereafter granted shall continue only upon the condition that the party receiving the same shall build, maintain, and keep in repair a sidewalk over such space used or constructed to be used and pay all damages that may be sustained by any person by reason of such use or by reason of said sidewalk being defective or in a dangerous condition. As a condition precedent to the issuance or continuance of any permit for the use of any space underneath the municipal sidewalks as herein contemplated, the governing body may require applicant to furnish a bond to the municipality as obligee for the benefit of any person or persons who may suffer any damage or damages by reason of such use. The bond shall be in such sum as the governing body, in its discretion, may designate.
Penalty, see § 10.99

§ 93.024 DANGEROUS STAIRWAY.

It shall be unlawful for any person to construct or maintain any stairway, open cellarway, open basement way, or open entrance thereto in or adjacent to any sidewalk, pavement, or street, and any such entrance is hereby declared to be a public nuisance, provided that all existing stairways, open cellarways, open basement ways, or open entrances thereto in sidewalks, pavements, or streets may be permitted to remain from and after the passage, approval, and publication of this code if the person owning or using the opening in the sidewalk, or street, shall satisfy the Utilities Superintendent that the same is properly protected by a balustrade or coping of durable material and shall furnish the municipality with a bond in such amount as the governing body may set, for the benefit of any person who might suffer an injury or damage by reason of the use of the stairway, cellarway, or open basement way.
Penalty, see § 10.99

§ 93.025 CONSTRUCTION AT OWNER'S INITIATIVE.

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

(B) The owner shall make application in writing for a permit and file such application in the office of the Municipal Clerk. The permit shall give a description of the lot or piece of land along which the sidewalk is to be constructed. The official in charge of sidewalks shall issue the desired permit unless good cause shall appear why the permit should be denied, provided that if it is desired to construct the sidewalk at any other than the regularly prescribed location, grade, or elevation, the municipal official in charge of sidewalks shall submit the application to the Board of Trustees who shall determine whether

the permit should be granted or denied. It shall be unlawful for any person to construct, or cause to be constructed the sidewalk at any other location, grade, or elevation than so designated by the municipality. All sidewalks shall be built and constructed on the established grade or elevation, and if there is no established grade, then on the grade or elevation indicated by the municipal official in charge of sidewalks.
Penalty, see § 10.99

§ 93.026 CONSTRUCTION AT MUNICIPAL DIRECTION.

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

(B) A copy of the notice shall be personally served upon the occupant in possession of such property, or, when personal service is not possible, the 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 Municipal Attorney in accordance with the provisions of this section. Such service shall include a form of return evidencing personal service or posting as herein required.

(C) The notice shall notify the owner of the premises of the passage of the resolution ordering the owner to construct or cause to be constructed a sidewalk within 30 days after the date of publication, and further that if the owner fails to construct the sidewalk or cause the same to be done within the time allowed, the municipality will cause the sidewalk to be constructed, and the cost thereof shall be levied and assessed as a special tax against the premises, provided that the notice shall contain the official estimate of the cost of construction, and no special assessment in excess of this estimate shall be assessed against the property. In the event the property owner is a non-resident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.
Statutory reference:

Authority to construct or otherwise improve through sidewalk district, see Neb. RS 19-2417 through 19-2419

Authority to construct and repair, see Neb. RS 17-522 through 17-524

RESOLUTION #93.007.1

VILLAGE OF GILTNER
HAMILTON COUNTY
STATE OF NEBRASKA

Be it resolved that on the 13th day of August in the year 2007, the Village of Giltner Board of Trustees hereby offers for sale a tract of land hereby legally described as:

BLOCK 9, LOTS 9&10, Original Town, Giltner, Nebraska.

Method of advertisement shall be by posting for ten days in three public places. Posting shall be in the Village Library, Clerk's Office and Post Office. All serious offers shall be by sealed bid. Bids shall be submitted in person or by regular mail to P. O. Box 218, Giltner, NE 68841-0218. All bids shall be in the clerk's office before 11 o'clock A.M., August 24, 2007. Bids will be opened in the clerk's office on Friday, August 24, 2007 at 11:15 o'clock A.M.

Village reserves the right to refuse any/all bids. Final sale will be the decision of the Village of Giltner Board of Trustees during a regular monthly meeting.

Delbert E. Nuss

Delbert Nuss
Chairman

Charlynn Kral Krcilek

Charlynn Kral Krcilek
Village Clerk

August 15, 2007
Date

(seal)

ORDINANCE NO. 93.007.1.1

VILLAGE OF GILTNER }
COUNTY OF HAMILTON }
STATE OF NEBRASKA }

WHEREAS, the Chairperson and the Board of Trustees is the Governing Body of the Village of Giltner,

THEREFORE, be it ordained that the Chairperson and the Board of Trustees, Giltner Nebraska, do;

HEREBY sell a tract of land legally described as:

BLOCK 9, LOTS 9&10, Original Town, Giltner, Nebraska

Sale was conducted according to Resolution # 93.007.1 passed on August 13, 2007 at the regular Village of Giltner Board of Trustees meeting.

Final sale is the decision of the Board of Trustees.

Sold to Brian and/or Susan Sanders for $2,500.00/100. Method of payment shall be by money order, cash, or cashiers check.

Reference: Giltner Code 93.007

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

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

Brian Sanders
Buyer Signature

Brian Sanders
Printed Name

Delbert E Nuss
Delbert Nuss, Chairperson

Charlynn Kral Krcilek
Charlynn Kral Krcilek, Village Clerk

Date: 9-10-07

(SEAL)

NEBRASKA DOCUMENTARY STAMP TAX
Date 9-26-07
$ Exempt By DD

REGISTERED DD
RECORDED DD
COMPARED DD cm
O.K. DD

#6 cr #1935
State of Nebraska County of Hamilton
Filed for record 9-26 2007
at 12:40 M, and recorded in Deed
Book 94 page 228
Patricia Anderson, County Clerk
Donna Driewer, Deputy

WARRANTY DEED

Village of Giltner Grantor, in consideration of two thousand, five hundred and 00/— Dollars, received from Grantee, Brian and/or Susan Sanders

Conveys to Grantee, the following described real estate (as defined in Neb. Rev. Stat. 76-201): Block 9, Lots 9 and 10, Original Town, Giltner, Hamilton County, Nebraska

Grantor covenants (jointly and severally, if more that one) with the Grantee that Grantor:

(1) is lawfully seized of such real estate and that it is free from encumbrances subject to easements, reservations, covenants and restrictions of record;
(2) has legal power and lawful authority to convey the same;
(3) warrants and will defend the title to the real estate against the lawful claims of all persons claiming the same or any part thereof by, through, or under Grantor.

Executed: September 20, 2007.

Signed:

Charlyn Kay Kvicala — Clerk/Treasurer
Susan M. Sanders — Owner

State of Nebraska
County of Hamilton

The foregoing instrument was acknowledged before me on 9-26-7

By Charlyn Kvicala / Susan Sanders

Seal GENERAL NOTARY-State of Nebraska EILEEN EIKMEIER My Comm. Exp. 5-27-08

Notary Eileen Eikmeier
Commission Expires 5-27-08

TO BE FILED WITH REGISTER OF DEEDS

Real Estate Transfer Statement

• Read instructions on reverse side

FORM **521**

THE DEED WILL NOT BE RECORDED UNLESS THIS STATEMENT IS SIGNED AND LINES 1-25 ARE ACCURATELY COMPLETED

1 County Name [illegible]

2 County Number 41 #465

3 Date of Sale Mo. 2 Day ____ Yr. [illegible]

4 Date of Deed Mo. ____ Day ____ Yr. [illegible]

5 Grantor's Name, Address, and Telephone (Please Print)

Grantor's Name (Seller) [illegible]

Street or Other Mailing Address [illegible]

City [illegible] State NE Zip Code [illegible]

Telephone Number [illegible]

6 Grantee's Name, Address, and Telephone (Please Print)

Grantee's Name (Buyer) Brian and/or Susan Sanders

Street or Other Mailing Address 4016 N. Commercial Avenue

City Giltner State NE Zip Code 68841

Telephone Number (402) 849-2620

7 PROPERTY CLASSIFICATION NUMBER. Check one box in categories A and B. Check C also if property is mobile home.

(A) Status

(1) ☐ Improved
(2) ☐ Unimproved
(3) ☐ IOLL

(B) Property Type

(1) ☐ Single Family (2) ☐ Multi-Family (3) ☒ Commercial (4) ☐ Industrial (5) ☐ Agricultural (6) ☐ Recreational (7) ☐ Mineral Interests-Nonproducing (8) ☐ Mineral Interests-Producing (9) ☐ State Assessed (10) ☐ Exempt

(C)

(1) ☐ Mobile Home

8 Type of Deed

☒ Warranty ☐ Sheriff ☐ Executor ☐ Mineral ☐ Cemetery
☐ Quit Claim ☐ Conservator ☐ Partition ☐ Trust ☐ Other____

9

10 Type of Transfer

☐ Sale ☐ Auction ☐ Gift ☐ Exchange ☐ Foreclosure ☐ Satisfaction of Contract ☐ Life Estate ☐ Other (explain)____

11 Ownership Transferred in Full (if No, explain division)

☒ YES ☐ NO

12 Was real estate purchased for same use? (if No, state intended use)

☐ YES ☐ NO

13 Was sale between relatives? (If Yes, check appropriate box)

☐ YES ☒ NO ☐ Spouse ☐ Parents and Child ☐ Family Corporation or Partnership ☐ Grandparents and Grandchild ☐ Brothers and Sisters ☐ Aunt or Uncle to Niece or Nephew ☐ Other____

14 If the real estate was transferred for nominal consideration, what is the current market value?

15 Was mortgage assumed? If Yes, state amount and interest rate.

☐ YES ☒ NO $ %

16 Does this conveyance divide a current parcel of land?

☐ YES ☐ NO

17 Was sale through a real estate agent? (If Yes, name of agent)

☐ YES ☒ NO

18 Address of Property

[illegible] Commercial Avenue

19 Name and Address of Person to Whom Tax Statement Should be Sent

Brian and/or Susan M. Sanders
PO Box 96
Giltner, NE 68841

20 Legal Description

Lot 4, Lot 5 and N. Original Town Giltner Hamilton County, Nebraska

21 If agricultural, list total number of acres ____

22 Total purchase price, including any liabilities assumed	22	$ -
23 Was nonreal property included in purchase? ☐ YES ☒ NO (if Yes, enter amount and attach itemized list)	23	$
24 Adjusted purchase price paid for real estate (line 22 minus line 23)	24	$ -

Under penalties of law, I declare that I have examined this statement and that it is, to the best of my knowledge and belief, true and correct, and that I am duly authorized to sign this statement.

sign here

25 Brian and/or Susan M. Sanders — Print or Type Name of Grantee or Authorized Representative — Telephone Number (402) 849-2620

Signature of Grantee or Authorized Representative — Title — Date 9/25/07

REGISTER OF DEEDS' USE ONLY | **FOR NDR USE ONLY**

26 Date Deed Recorded	27 Value of Stamp or Exempt Number	28 Deed Book	29 Deed Page	30
Mo. 09 Day 26 Yr. 2007	$ EXEMPT #2	94	228	

VILLAGE OF GILTNER
4021 N COMMERCIAL AVE
PO BOX 218
GILTNER NE 68841-0218

VILLAGE OF GILTNER

RESOLUTION #93.008.01
AUTHORIZING CHIEF ELECTED OFFICIAL TO SIGN AN APPLICATION FOR CDBG FUNDS

Whereas, the Village of Giltner, Nebraska, is an eligible unit of a general local government authorized to file an application under the Housing and Community Development Act of 1974 as Amended for Small Cities Community Development Block Grant Program, and,

Whereas, the Village of Giltner, Nebraska, has obtained its citizens' comments on community development and housing needs; and has conducted a public hearing(s) upon the proposed application and received favorable public comment respecting the application which for an amount of $250,000 for construction of a Community Center; and,

NOW, THEREFORE, BE IT RESOLVED BY

the Village Board of Trustees of the Village of Giltner, that the Chairman be authorized and directed to proceed with the formulation of any and all contracts, documents or other memoranda between the Village of Giltner and the Nebraska Department of Economic Development so as to effect acceptance of the grant application.

Signature: Barry Findley

Title: Chairman

Date: April 10, 2006

EXHIBIT B

EQUAL HOUSING OPPORTUNITY

ORDINANCE NO. 93.007.1.1

VILLAGE OF GILTNER }
COUNTY OF HAMILTON }
STATE OF NEBRASKA }

WHEREAS, the Chairperson and the Board of Trustees is the Governing Body of the Village of Giltner,

THEREFORE, be it ordained that the Chairperson and the Board of Trustees, Giltner Nebraska, do;

HEREBY sell a tract of land legally described as:

BLOCK 9, LOTS 9&10, Original Town, Giltner, Nebraska

Sale was conducted according to Resolution # 93.007.1 passed on August 13, 2007 at the regular Village of Giltner Board of Trustees meeting.

Final sale is the decision of the Board of Trustees.

Sold to Brian and/or Susan Sanders for $ 2,500.00/100. Method of payment shall be by money order, cash, or cashiers check.

Reference: Giltner Code 93.007

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

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

Brian Sanders
Buyer Signature

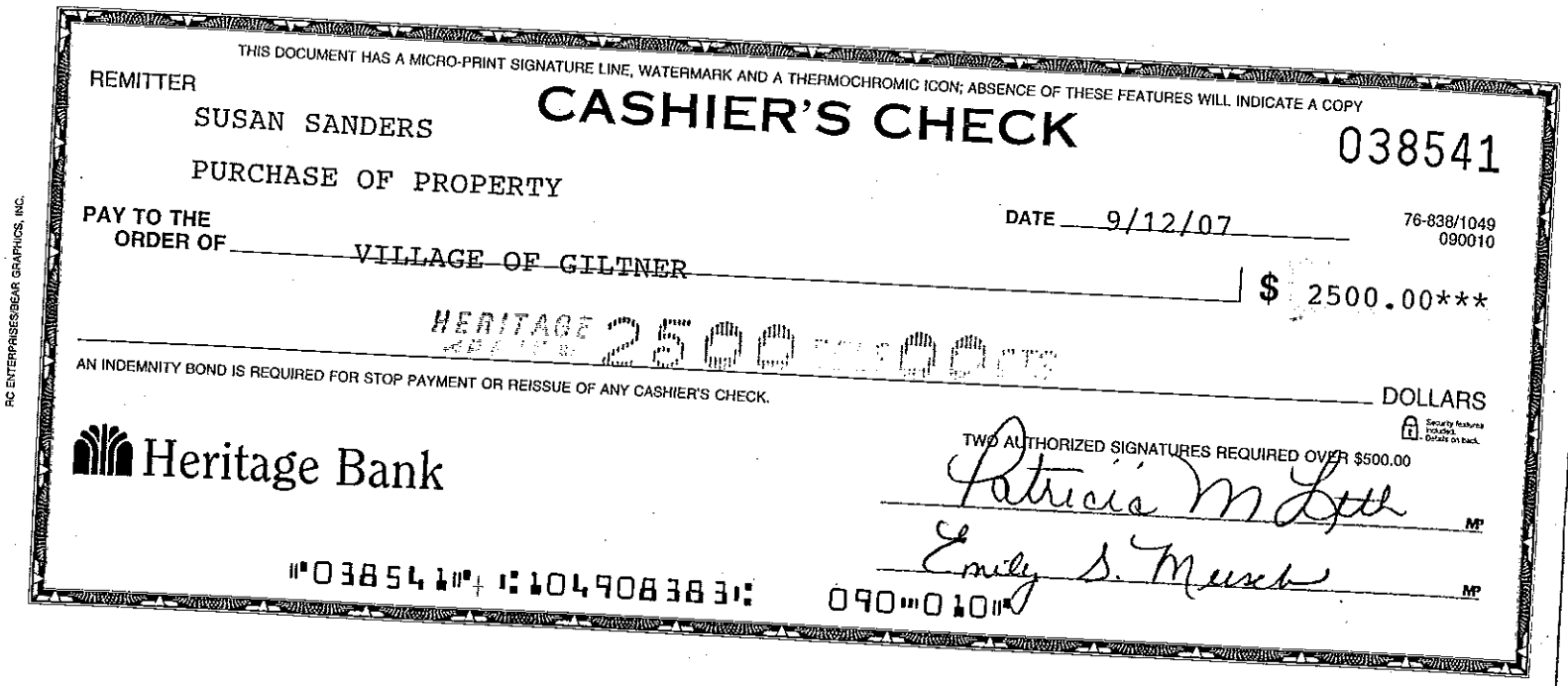
Brian Sanders
Printed Name

Delbert E Nuss
Delbert Nuss, Chairperson

Charlynn Kral Krcilek
Charlynn Kral Krcilek, Village Clerk

Date: 9-10-07

(SEAL)



THIS DOCUMENT HAS A MICRO-PRINT SIGNATURE LINE, WATERMARK AND A THERMOCHROMIC ICON; ABSENCE OF THESE FEATURES WILL INDICATE A COPY

REMITTER

SUSAN SANDERS

PURCHASE OF PROPERTY

CASHIER'S CHECK

038541

DATE 9/12/07

76-838/1049
090010

PAY TO THE ORDER OF VILLAGE OF GILTNER

$ 2500.00***

HERITAGE 2500 00 DOLLARS

AN INDEMNITY BOND IS REQUIRED FOR STOP PAYMENT OR REISSUE OF ANY CASHIER'S CHECK.

Heritage Bank

TWO AUTHORIZED SIGNATURES REQUIRED OVER $500.00

Patricia M Lyth

Emily S. Musch

⑈038541⑈ ⑆104908383⑆ 090⑈010⑈

RC ENTERPRISES/BEAR GRAPHICS, INC.

ORDINANCE RECORD

1 READING & PASSED

Giltner, Nebraska
August 14, 2006

The Chairperson and Board of Trustees of the Village of Giltner, Nebraska met in special/ regular session in the town hall in said Village at 7 p.m. Chairperson Bradley presided. Village Clerk Krcilek recorded the proceedings of this meeting.

The following Trustees were present: Hinrichs, Russ, Bradley, Williams, Cates. Absent was: —.

Trustee Cates introduced Ordinance No. 33.91 entitled: Open Meetings Act.

and moved that the statutory rule requiring reading on three different days be suspended. Trustee Hinrichs seconded the motion to suspend the rules and upon roll call vote on the motion, the following Trustees voted YEA: Russ, Williams, Hinrichs, Bradley, Cates. The following Trustees voted NAY: —. Absent was: —.

The motion to suspend the rules was adopted by three-fourths of the Village Board and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Trustee Hinrichs moved for final passage of the ordinance, which motion was seconded by Trustee Williams. The Chairperson then stated the question: "Shall Ordinance No. _____ be passed and adopted?" Upon roll call vote, the following Trustees voted YEA: Bradley, Russ, Hinrichs, Cates, Williams. The following voted NAY: —. Absent was: —. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Board of Trustees, the Chairperson declared the ordinance adopted and the Chairperson, in the presence of the Trustees, signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed her signature thereto.

I, Charlynn Kral Krcilek, Clerk of the Village of Giltner, Nebraska, hereby certify that Ordinance No. 33.91, as attached herewith, was passed and approved on the 14th day of August, 2006, and has been posted in three public places, Town Hall, Library, and post office, for legally required time after said passage.

Charlynn Kral Krcilek
Charlynn Kral Krcilek
Village Clerk
Giltner, Nebraska

(SEAL)